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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 208.

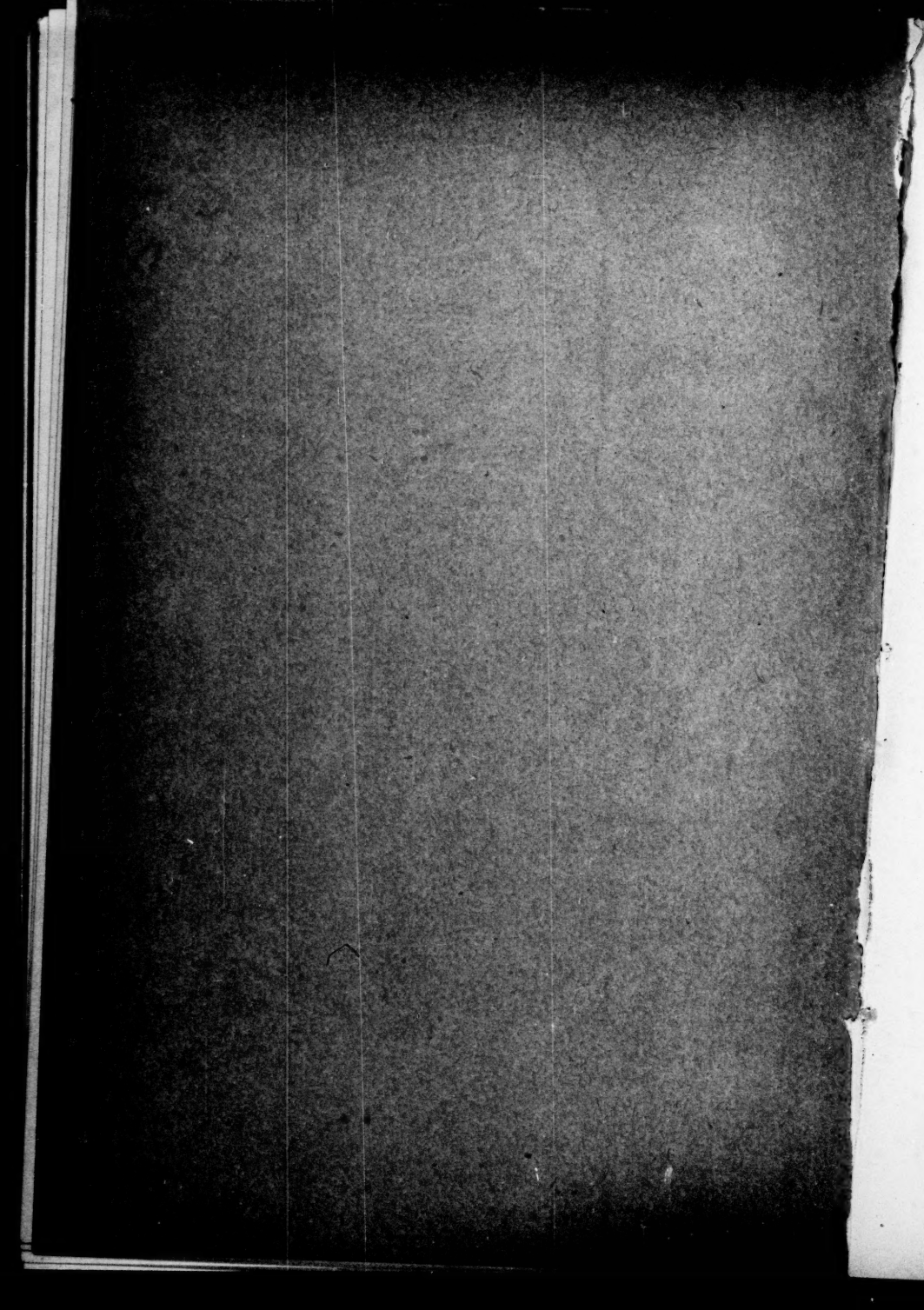
ANNA E. CAMERON AND J. D. CAMERON, HER HUSBAND, MARY F. THOMPSON AND HER HUSBAND, J. A. THOMPSON ET AL., APPELLANTS,

vs.

ASA HODGES; C. B. CLARKE, EXECUTOR OF E. E CLARKE, DECEASED, AND SURVIVING PARTNER OF THE LATE FIRM OF CLARKE, JOHNSON & CO., AND D. H. POSTON AND W. Y. C. HUMES, TRUSTEES.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TENNESSEE.

FILED FEBRUARY 23, 1885.



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1 UNITED STATES OF AMERICA.
— Division of the Western District of Tennessee:

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its —— term, A. D. 188–, at the United States court-house in the city of Memphis, in said district, on, to wit, the — day of ——, A. D. 188–, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiffs,
vs.
ASA HODGES and Others, Defendants. } Equity No. 376.

2 STATE OF TENNESSEE, *Shelby County,* } *ss:*

Chancery Court of Shelby County.

Pleas before the Honorable W. W. McDowell, chancellor of the chancery court of Shelby county, held in Memphis and State and county aforesaid and at the October term thereof, 1882.

Be it remembered that heretofore, to wit, August 22d, 1882, Anna E. Cameron and J. D. Cameron *at al.* filed their bill of complaint against Asa Hodges and C. B. Clarke, ex'r, *et al.* in the court aforesaid in the words and figures following, viz:

3 ANNA E. CAMERON & J. D. CAMERON, Her Husband, of Sardis, Miss.; Mary F. Thompson & Her Husband, J. A. Thompson, of Charkville, Texas; Eudora J. Morton & L. W. Morton, Her Husband; Laura C. Cobb & Her Husband, R. W. Cobb, of Verona, Ala.; J. E. Price, of San Antonio, Texas; Gaston Price, William Price, Lawler Price, Minor Heirs of W. R. Price, who Sue by their Mother & Next Friend, Leila Price; Leila Price, Widow of W. R. Price, of Brownsville, Tenn.,

vs.

ASA HODGES & C. B. CLARKE, Executor- of E. E. Clarke, Dec'd, & Surviving Partner of the Late Firm of Clarke, Johnson & Co.; D. H. Poston & W. Y. C. Humes, Trustees, of Shelby Co., Tenn.

To the Honorable W. W. McDowell, chancellor, presiding in the chancery court of Shelby county, Tennessee:

4 Complainants would respectfully show and represent to your honor that one Fleming H. Price, late of Crittenden county, Arkansas, departed this life in said county on the 2d day of November, 1880, testate, as they are informed and believe and will hereafter more fully explain and show; if, however, they should not be able to show that a will was duly executed, then they are the next of kin and heirs-at-law of said Fleming H. Price, dec'd; they aver that said Fleming H. was, at the date of his death, unmarried and

died without issue surviving him, never having been married; that he died a citizen of the State of Arkansas; that his father and mother had died anterior to the year 1866; that, by the laws of the State of Arkansas, in case of the death of a party intestate and without
5 issue surviving him his landed estates pass to the father, and if no father then to the mother, and in default of either issue or parent then to the brothers and sisters of the decedent in equal portions, any issue of any deceased brother or sister taking the interest of their deceased parent; and complainants aver that comp'ts, Anna E. Cameron, Mary F. Thompson, Eudora J. Morton, and Laura C. Cobb are sisters and J. E. Price a brother, and Gaston, William, and Lawler Price the children and Leila Price the widow of Wm. R. Price, a deceased brother who died shortly before the said Fleming H., and who sue herein by their mother and next friend, Leila Price, they being minors.

6 Complainants aver that said Fleming H. Price was ill for some days, and growing steadily worse he was desirous of having his sister, complainant Anna E. Cameron, sent for that she might be present with him in his last moments; that with this view he caused a telegram to be written and addressed to his said sister, complainant Anna E., & requested his uncle, Asa Hodges, to have same sent to her at Holly Springs, Miss., where she, at the time, resided, but this dispatch was not sent until after the death of her brother; and complainants aver that after it was sent complainant Anna E. hastened to Memphis to be present with her brother, and upon her arrival there was met with
7 the news of his death, and when arranging to go over to Marion or vicinity where her brother died she was informed or sent word by defendant, Asa Hodges, not to trouble herself about coming over, that the body would be brought to Memphis for interment in Elmwood Cemetery, and to await its arrival by boat from Mound City, Arkansas; and thereupon complainant and her husband went to the landing and with friends awaited its arrival; said Hodges, def't hereto, sent her word that the body would be certainly over with the next boat, that the wagon conveying it had broken down, and that so soon as it could be gotten to the landing it
8 would be brought over. The distance from the place where the death occurred to the landing at Mound City, Arkansas, was not more than five or six miles at farthest, and complainant Anna E., and her husband, J. D. Cameron, remained in this suspense all day, and late in the evening word was brought to them by defendant Hodges, who was present at the burial, that such statement was entirely false and that, as a matter of fact, when such word was sent her said brother had been buried on the farm where he had died, and there was never any intention of having him interred at Elmwood Cemetery, at Memphis, as he requested; but that immediately upon his death said Asa Hodges began
9 the preparation for his burial at or near where his death had occurred. The reasons for this conduct and the recitals of the details thereof will become more apparent and pertinent from the further details hereinafter set forth herein.

Complainants further aver that said Fleming H. Price was the own nephew of def't, Asa Hodges, being a sister's son. He had lived with defendant Hodges for some years. He had in the year 1872 bought of def't, Asa Hodges, the whole of section sixteen and west half of west — of section (15) fifteen, all in township (7) seven north, range eight east, in Crittenden county (section 16 & W. ½ of
10 W. ½ of S. 15, T. 7, R. 8 east), and had at the date of his death fully paid for the same, and, complainants aver upon the following facts, was in possession of a deed therefor which has been suppressed or destroyed, as will hereafter be shown, by the def't Hodges or some one authorized by him to do so.

Comp'ts aver that in September, 1880, about six weeks before the death of said Fleming H. Price, he then being in possession of the — above described, as owner thereof, growing a crop of cotton and corn thereon, paid a visit to comp'ts Anna E., at Memphis, and in conversation with complainant Anna E. he stated his business affairs to her, and upon her enquiry as to the condition of his matters and ti-les he stated to her that what business he had was all settled up, and he had his titles to the lands in black and
11 white, meaning proper deeds therefor; and comp'ts aver, upon the information from several reliable parties, that during the last illness of said Fleming H., when it was apparent that his sister, compl't Anna E. Cameron, could not reach him that night, said Fleming H. called his physician to him and asked him as to the probable length of time he could live, and being informed only for an hour or two, he then called upon some of his attendants and caused a black valise to be handed to him, and upon its being opened he, Fleming H., took therefrom a bundle of letters and correspondence and caused it to be burned; and then putting his valuable papers together in the same black valise, he handed it to his
12 attendants with instructions to not allow def't, Asa Hodges, or his wife, C. S. T. Hodges, to have the papers, and they were then and there positively directed and instructed to deliver them alone to compl't Anna E. Cameron, whom he was hourly expecting, and soon thereafter said Price died. During last illness compl'ts are advised that his will was written, by which he gave to his sister, Anna E. Cameron, 2 interests in his entire estate, dividing the ballance equally between his other sisters and brother's children. Compl'ts aver that the deed for his lands, those herein above described, and his will were in the black valise and were the papers he wished given to compl'ts Anna E., but they aver that shortly after the death of Fleming H.
13 Price said Asa Hodges came into the room and wished to know where the papers of said F. H. Price were, and, being informed by the attendants that they were alone to be given to compl't Anna E., he took violent possession of them, stating that when Willie R. Price died that his papers were all lost and destroyed and that he was determined to take care of Fleming Price's papers, and then and there he took the valise and emptied their entire contents into a paper bag and took them away with him, and, altho'

frequently demanded of him, he has invariably refused to surrender them.

Said Hodges and his wife have both frequently admitted that F. H. Price made a will, disposing of his property as above
14 stated, and in fact it has been admitted by both Hodges and his wife or one of them that defendant, Asa Hodges, himself wrote the will.

Compl'ts further aver that the title of the said section 16 and west half of the west half of section 15, township 7, range 8, appears on the record in the name of Caroline S. F. Hodges, the wife of def't, Asa Hodges, but they aver that both she and the def't, Asa Hodges, soon after the death of said F. H. Price, admitted that the property belonged to him and they had executed a deed to him, which fact said Price, six weeks before his death, in substance assured his sister, compl't Anna E., was the fact, and they aver that when said Asa Hodges took said valise and the papers
15 therein that he then and there took and got possession of the unregistered deed and the will of said F. H. Price, which he has suppressed and made away with, with the view and intent of robbing compl'ts, who are his nephew and neices and the heirs of their brother's estate.

They aver that at the death of said F. H. Price he was in the actual possession of said land; had a large and valuable crop of cotton and corn thereon, besides stock, horses, mules, wagons, and farming implements; that his crop of cotton alone was more than 200 bales, from the best information they can get, all of which def't, Asa Hodges, without administration or warrant of authority, took and
16 converted to his own uses and which was of the value of more than ten thousand dollars, as they are advised. They aver that said Hodges and wife have repeatedly admitted the fact to be that the property was that of said F. H. Price, such admission having been made to both Anna E. Cameron and her husband and others. Since the death of said F. H. Price compl'ts, through their attorneys and others, and by themselves (said Anna E. & J. D. Cameron), have had repeated interviews with both def't, Asa Hodges, and his wife, and in no one of such interviews have Hodges and wife ever denied, but to the contrary always admitted, that the property above described was that of their brother; yet they have continuously refused to yield possession.

17 Said plantation is very valuable, is nearly all cleared, and in a fine state of cultivation, yielding a rental of not less than 3,000 to $3,000.00 per annum; and said Hodges and wife have been in possession thereof and have received the rentals or crops for the years 1880 & 1881, and are now in possession of the crops of 1882, which, altho' laid by, has not yet been harvested, and which they are informed is very large and valuable, worth many thousand dollars.

They aver that very recently Mrs. Caroline S. T. Hodges, the wife of def't, Asa Hodges, has departed this life testate, leaving def't, Asa Hodges, her whole estate, real and personal, in this State and the

State of Arkansas. Her said will has been duly probated in
18 this county, and said Hodges, being released from bond by her will, has duly qualified as executor; a copy of which will is herewith filed as Exhibit No. 1 hereto, not to be copied.

Complainants aver that on 16th day of December, 1878, the title to the above-described property being then in the name of Mrs. Caroline S. T. Hodges, of record, altho' really the property of F. H. Price, she fraudulently, or by fraudulent direction of def't, Asa Hodges, made a deed of trust to def'ts, D. H. Poston and W. Y. C. Humes, as trustees, to secure to Wm. P. S. & John, the adm'r of A. W. Arnold, dec'd, three notes for $5,000.00, due Jan'y 1st, 1879, 1880, & 1881. In such trust deed she embraced the lands belonging to said F. H. Price, and in addition the following other lands in
19 said Crittenden — and State of Arkansas, and Shelby county Tennessee, to wit, the northwest quarter of section 22, township 7 north, range 8 east, in Crittenden county, Ark., and the following property situated in what was formerly known as the city of Memphis, now the taxing district of Shelby county, to wit, on the east side of Shelby street, and it begin- at its intersection with the south line of Butler street; thence south with the east line of Shelby street 90 feet; thence east between parallel lines 220 feet to an alley. This trust deed was duly registered in the register's — of Shelby county, Tennessee.

Complainants have reason to believe that said Price never knew of this trust deed having been put upon his property, but
20 aver that it was done without his authority or consent. They, however, aver that Hodges and wife paid the first note and discharged the trust entirely as to it. The 2nd note was in like manner paid off, but when the 3rd note was paid def't Hodges caused an endorsement to be entered upon the trust deed that the same was transfer-ed to Clarke, Johnson & Co., who had paid the notes—the last two, *and* he now claims—and has offered to turn over the property to compl'ts upon their paying these two notes and without his accounting for the crops of 1880 & 1881, which, if said F. H. Price were liable therefore, would have, in compl'ts' opinion, far more than paid off the same.

Compl'ts aver that the balance of the property in Memphis
21 belonging to Mrs. Hodges' estate and the quarter section in Arkansas is far more than sufficient to pay this balance, and they are advised that the court would compel said Clarke, Johnson & Co., or E. E. Clarke's estate, whose sole representative the def't, C. B. Clarke, is, to first exhaust Mrs. Hodges' own property before resorting to that which belongs to complainants. They herewith file said original trust deed to D. H. Poston & W. Y. C. Humes, as trustees, as Exhibit No. 2 hereto, not to be copied.

They further aver that if it were true that said Clarke could subject this property to the payment of his two notes, if they really exist, that these compl'ts have resource upon the estate of Caroline S. T. Hodges for indemnity, and are entitled to be subrogated
22 to all the rights of the beneficiaries to the other property in the trust conveyance embraced, or to her general estate.

They aver that said Asa Hodges was and is guarantor or surety on said two 5,000.00 notes, and is primarily and individually liable therefor, and whatever may be rights of Clarke, Johnson & Co. to the security that the same can never be subjected to the payment of said notes at the instance of def't Hodges.

Compl'ts aver that large crops of cotton have been sold from this property so owned by their brother, and they have reason to believe that Clarke, Johnson and Co. or E. E. Clarke or C. B. Clarke, or some one for them, received the crops so raised on said plantation for the years 1880 & 1881, which said crops or their proceeds should be applied as a credit on these two 5,000.00 notes, and
23 they call upon said C. B. Clarke to answer and disclose what he knows in reference to said crops and what his books may show on the subject; and they charge that all moneys, &c., in their hands belonging to Asa Hodgers or his wife should be credited on said two notes as aforesaid, and that said Hodges and the estate of his wife in his hands should be charged with said notes, & that said Hodges and wife's estate should be charged with the crops of cotton and corn raised in the year 1880 by F. H. Price and converted by them, and also for all the stock, farming utensils, wagons, &c., used and converted by them.

That said Hodges should be charged with at least $5,000.00 rental for the years 1881 and same amount for the year 1882.

24 They further aver that if said Price ever owed the two $5,000 — that the crops of 1880 & 1881 or the proper rentals of the property has more than paid off and discharged the same.

Compl'ts aver that for their own protection they are compelled to ask this court that the whole property embraced in said trust deed be impounded; they, on advice, aver that said Hodges is being sued largely for larger sums, and that unless restrained he will make away with the property.

They aver that by the will of said F. H. Price he gave his gold watch to compl't, J. D. Cameron, and within the past few days said Hodges, in fulfillment of said will, has surrendered to him said watch.

25 They aver that there is a clear resulting trust to them for said property; that Mrs. Hodges had actually executed and delivered the deed, or, if not, held it, the title, subject to the call of said F. H. Price whenever he might demand it, and they are advised that in either event they are entitled to a decree setting up the deed as lost or destroyed or a resulting trust in their favor.

Def't Hodges is now a resident of Shelby county, Tennessee.

Premises considered, complainants pray that the parties def'ts in the caption be made such by due process, and be required to answer, but def'ts' answer on oath is respectfully waived and excused.

That def't, Asa Hodges, be subjoined from selling, trans-
26 ferring, or in any manner disposing of the real estate in the trust deed described herein as lots on Shelby street, 90 feet front by 220 feet depth, and also section 16 and W. ½ of W. ½ of section 15, township 7 N., range 8 east, or any other of the property set forth; the trust deed to D. H. Poston and W. C. Humes, trustees,

and from gathering or attempting to sell the crops grown on said lands for the present year; that a receiver be appointed to take charge of all the said crops upon said lands herein claimed as the property of compl'ts in the right of F. H. Price, dec'd, and to rent out and collect the rents in the further prosecution of this suit.

That the will of F. H. Price be set up and established, and that the deed from Mrs. C. S. T. Hodges to F. H. Price for the
27 property set forth in the bill herein be set up and established as duly executed and delivered, and the rights of compl'ts to the property in dispute be fully established and decreed.

That def't, Asa Hodges, individually and as adm'r or executor of his wife, be decreed against for the full value of the crop of cotton and corn for 1880 and for a proper rental value for the year 1881 & 1882, together with the value of all stock, horses, mules, wagons, &c., belonging to the estate of F. H. Price, converted by him and them.

That in the event any part of said notes be unpaid that said def't, C. B. Clarke, as executor and surviving partner, be compelled to exchaust first the property in said trust deed contained in which compl'ts have no interest.

28 That the rents and crops upon all the property be collected by a receiver herein appointed and applied to the payment of what balance may be due to said Clarke or the holder of the two notes secured thereby & claimed to be outstanding.

That on final hearing a decree be rendered against def't Hodges for the value of rents and crops collected and converted and for which he is liable.

They pray for all other further, general, and special relief to which they may be entitled in the premises.

This is the first application for injunction herein.

POSTON & POSTON &
HUMES & POSTON,
Sol's for Comp'ts.

STATE OF MISSISSIPPI, *County of Panola:*

29 Personally appeared before me, S. R. Blann, clerk of the chancery court of the 1st district of Panola county, Mississippi, Anna E. Cameron and J. D. Cameron, two of the above compl's, who, being first duly sworn, on oath says that the matters and facts in the foregoing bill contained as averred of their own knowledge are true, and those averred on information of others *she* believes to be true.

J. D. CAMERON.
A. E. CAMERON.

Subscribed and sworn to before me on this the 9th day of August, A. D. 1882.

In testimony whereof witness my hand and seal of said court, at office, at Sardis, Mississippi, this 9th day of August, 1882.

[SEAL.] S. R. BLANN, *Clerk.*

30 To the clerk and master of the chancery court of Shelby county, Tennessee:

Let injunction issue as prayed for upon comp'ts giving bond, with surety, as required by law, in the penalty of five hundred dollars.

This August 16th, 1882.

W. W. McDOWELL,
Chancellor, &c., of Chancery Court of Shelby County, Tennessee.

Cost Bond.

We, Anna E. Cameron *et al.*, as principals, and W. K. Poston, sureties, acknowledge ourselves indebted to Asa Hodges *et al.* in the sum of two hundred and fifty dollars, to be void if the said
31 Anna E. Cameron *et al.*, complainant, in a bill which has this day been filed in the chancery court of Shelby county against the said Asa Hodges *et al.*, shall pay all such costs as may be awarded against them by the court in its decrees and orders in said cause.

This 22d day of August, 1882.

ANNA E. CAMERON AND OTHERS,
Complainants,
By POSTON & POSTON, *Sol's.*
W. K. POSTON.

Injunction Bond.

We, Anna E. Cameron *et al.*, complainants, as principals, and W. K. Poston, sureties, acknowledge ourselves indebted to Asa Hodges *et al.* in the sum of five hundred dollars. The condition of the above bond is such that whereas the said Anna E. Cameron *et al.*,
32 complainant-, have this day filed their bill in the chancery court of Shelby county against the — Asa Hodges *et al.*, defendant-, — obtained an order for the issuance of the writ of injunction in accordance with said order upon the execution of this bond:

Now, if the said complainants shall comply with and perform the orders and decrees of the court in case said injunction is dissolved, and shall pay to said defendants such damages as shall be awarded to or recorded by them for the wrongful suing out of the injunction, and also such costs as may be awarded to them by the court, then this obligation to be void.

33 Witness our hands and seals this 23d day of August, 1882.

ANNA E. CAMERON AND OTHER-,
Complainants,
By POSTON & POSTON, *Sol's.*
W. K. POSTON.

Injunction. Issued 22d day of August, 1882. *R. J. Black, C. & M.*

The State of Tennessee to Asa Hodges, agents and attorneys, Greeting:

Whereas Anna E. Cameron *et al.* hath lately exhibited their bill of complaint in the chancery court of Shelby county against you,

the said Asa Hodges *et al.*, as defendants therein, and obtained from the Honorable W. W. McDowell, judge, etc., an order that
34 writs of injunction do issue according to the prayer of said bill, we therefore in consideration of the premises, do strictly enjoin and command you, the said Asa Hodges, and all and every the persons before mentioned and each and every of you, that you and every of you do absolutely desist and refrain from selling, transferring, or in any manner disposing of the real estate described in the first deed from C. S. F. Hodges *et al.* to D. H. Poston and W. G. C. Humes, trustees, and described as follows: Being a lot on Shelby street 90 feet front by 220 feet deep; also sec. 16 & W. ½ of W. ½ of sec. 15, township 7 N., range 8 east, in Crittenden county, Ark., or any other property set forth in said trust deed. Said lot first described lies in the city of Memphis, now taxing district of Shelby
35 county, Tennessee; and from gathering or attempting to sell the crops grown on said lands in Crittenden Co., Ark., for the present year until the further order of our said court to the contrary; and this you shall in nowise omit under the penalty prescribed by law.

Witness Robert J. Black, clerk and master of said court, at office, in the city of Memphis, this first Monday in April, 1882.

R. J. BLACK,
Clerk and Master,
By J. M. BRADLEY,
Dep. Clerk and Master.

Return.

Came to hand 26th day of Aug., 1882. Executed this process Aug. 26th, 1882, on Asa Hodges by making known to him the contents of the within.

This 26 day of Aug., 1882.

P. R. ATHY, *Sheriff,*
By E. B. BRITT, *D. S.*

36 *Subpœna to Answer. Issued 23rd Day of August,* 1882. *R. J. Black, C. & M.*

The State of Tennessee to the sheriff of Shelby county:

Summon Asa Hodges, C. B. Clarke, ex't'r of E. E. Clarke, dec'd; D. H. Poston, and W. G. C. Humes, trustees, if to be found in your county, to appear before the chancery court of Shelby county, at the court-house in Memphis, Tennessee, on the first Monday in October next, then and there to answer the bill of complaint of Anna E. Cameron *et al.*, a copy of which accompanies this writ; herein fail not and have you then and there this writ.

Witness R. J. Black, clerk & master of said court, at office,
37 in Memphis, this first Monday in April, 1882.

R. J. BLACK,
Clerk and Master,
By J. M. BRADLEY,
D. C. & M.

Return.

Came to hand 26th day of Aug., 1882. Executed 26th day of Aug., 1882, by reading the within to Asa Hodges and leaving the copy of bill with him.

This 26th August, 1882.

P. R. ATHY, *Sheriff*,
E. B. BRITT, *D. S.*

Came to hand Aug. 23d, 1882, and executed August 26th, 1882, on C. B. Clarke, D. H. Poston, and W. Y. C. Humes, by making known to them the contents of this writ.

P. R. ATHY, *Sheriff*,
By C. R. STEWART, *D. S.*

38 *Petition for Removal. Filed Oct. 21st, 1882. R. J. Black, C. & M.*

In the Chancery Court of Shelby County, Tennessee.

ANNA E. CAMERON *et al.*
vs.
ASA HODGES *et al.*
} R. 4593.

To the hon. W. W. McDowell, chancellor:

Your petitioner states that he is, and at the time of the institution of this suit was, a citizen of the State of Arkansas and not of the State of Tennessee, and that none of the complainants are or were at that time citizens of said State of Arkansas; that said suit is of a civil nature, and the matters in controversy exceeds, ex-
39 clusive of costs, in value the sum of five hundred dollars; that the controversy affects the ownership of real estate in said State of Arkansas, and can be wholly decided between complainants and this defendant. Wherefore he prays an order for the removal of said cause from this court to the United States circuit court for the western district of Tennessee, at Memphis, and he tenders herewith the requisite bond, as required by law, for the removal thereof.

Asa Hodges, the petitioner, being sworn, says the matters set forth in the above petition are true as far as stated on his own
40 knowledge; the rest he believes to be true.

ASA HODGES.

Sworn to this October 2nd, 1882.

J. M. BRADLEY,
Deputy Clerk & M.

Bond.

We acknowledge ourselves indebted to Anna E. Cameron *et al.*, complainants in the above-styled cause, in the sum of two hundred and fifty dollars.

To be void on condition that the petitioner, Asa Hodgers, shall cause to be filed, on or before the 1st day of the next term of the United States circuit court for the west- — Tennessee, a copy of the record in said suit, and shall pay all costs that may be
41 awarded by said court if it shall hold that said cause was wrongfully or improperly removed thereto.

In testimony whereof we hereto set our hands this the 2d day of October, 1882.

ASA HODGES.
C. H. TAYLOR.

Order for Removal. E. Oct. 2, '82. *M.* 36, *P.* 240.

ANNA E. CAMERON *et al.*
vs.
ASA HODGES *et al.* } R. 4593.

In this cause a petition in due form, with bond, as required by law, having been filed by def't, Asa Hodges, and it appearing that the same is regular, and that defendant is entitled to its removal:
42 It is ordered that a transcript be made and that said cause be removed as prayed.

STATE OF TENNESSEE, *Shelby County,* } *ss:*

I, Robert J. Black, clerk and master of the chancery court of Shelby county, do hereby certify that the foregoing 35 pages comprise a full, true, and perfect transcript of all the proceedings had in a certain cause lately pending herein, wherein Anna E. Cameron *et al.* are complainants and Asa Hodges *et al.* are defendants, as the same appear of record and on file in my office.

In witness whereof I hereto set my hand and affix the seal
43 of said court, at — office, in Memphis, this 5th day of October, A. D. 1882.

R. J. BLACK,
Clerk and Master, D. C. & M.

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al.*, *v.* Asa Hodges *et al.* Transcript chancery court of Shelby county. Filed Oct. 16, 1882. Bell W. Etheridge, cl'k. W. B. Weisiger, D. C.

44 The answer of Asa Hodges individually and as the executor of the last will & testament of Mrs. Caroline S. T. Hodges, deceased, to the bill of complaint of Anna E. Cameron and J. D. Cameron, her husband, & others, as complainants, filed against him and others, as defendants, in the chancery court of Shelby county, in the State of Tennessee.

The defendant, said Asa Hodges, saving and reserving to himself all and all manner of legal & proper exceptions and objections to

the many errors, misstatement, and mistakes in said bill contained, for himself individually and as the executor of the said will of said Caroline S. T. Hodges, deceased, answers and says as follows to the charges and allegations in said bill contained, which he is
45 advised it is necessary and proper for him to answer unto:

Defendant admits that said Fleming H. Price died on the Arnold place, in Crittenden county, in the State of Arkansas, on November 2, 1880; but the defendant was himself unwell and removed some miles from the Arnold place, and had no knowledge or notice that the sickness of said Fleming was likely to terminate fatally until just before the death occurred, and as soon as he learned that said Fleming desired the presence of his sister, said Anna E. Cameron, at his sick bed, he, defendant, took every means in his power to procure her attendance, but his efforts, without any fault of his, wholly failed. The death was sudden and unexpected,
46 and it is wholly untrue that said Anna was kept away from the dying bed of her said brother by any act or connivance or intention of defendant, Asa Hodges, or his wife, now deceased. The telegram was sent as soon as it could be after it was requested. It was sent without the least delay. It had to be sent from the Arnold place to Memphis, Tenn., a distance of thirteen or more miles, and the river had to be crossed before it could be dispatched by the telegraph operator in Memphis, Tenn. Every diligence was used by def't to give it dispatch, and all statements and insinuations to the contrary in the bill of complaint complained — are utterly false and untrue and malicious. After the death of said Fleming this def't, Asa Hodges, sent over to
47 Memphis to procure a metal-ic burial case or coffin to carry said Fleming's body to Memphis and bury him in Elmwood cemetary, but the case first procured was too short and the same had to be sent back and another gotten in its stead. They occasioned considerable delay, which could not then be avoided. With this unexpected delay defendant Hodges received information from the captain of the ferry-boat from Mound City to Memphis that the corpse of the said Fleming H. Price would not be permitted to be brought into Memphis and carried to Elmwood without a permit from the authorities of the city, and defendant felt so unwell
48 that he could not procure it; *she* thought it best to bury the corpse temporarily on his wife's farm, in Arkansas, until it could be removed to Elmwood cemetary, where he intended to bury it as a final resting place.

And defendant, further answering, says that it is true that said Fleming H. Price, together with his brother, Wm. R. Price, bought the land mentioned in the bill from him, this defendant, in 1882, and afterwards said Fleming H. Price purchased the interest in said land of said Wm. R. Price and became the sole owner thereof; but it — wholly false and untrue that said Fleming H. Price or that he and said Wm. R. Price or either of them ever paid defendant
49 for said land, as is alleged and pretended in complainant's said bill, or was such payment ever made to his wife, Mrs. Caroline S. T. Hodges, and at her death she was the sole and real

owner thereof, in her own right, in *in* fee-simple, with the lien of the mortgage thereon mentioned in said complainant's said bill of complaint in this action, and all charges, allegations, and insinuations in said bill to the contrary are wholly false.

And defendant, further answering, says that it is not true, but false, as alleged *as in* pretended in said bill, that said Fleming H. Price had at the date of his death fully paid for said lands named in said bill, and was in possession of a deed therefor from any party or parties having right to convey the same, or from this de-
50 fendant and the said Caroline S. T. Hodges or either of them, and that said deed has been suppressed or destroy-. No such deed for said lands or any part of them was ever delivered to said Price in his lifetime by this defendant *or by this defendant* or his said wife, as is pretended in said bill; and this defendant, further answering, says that said Fleming H. Price was not in possession of said lands and crops thereon, as his own property, at the date of his death, but his possession was only and wholly as the agent and manager of said Caroline S. F. Hodges, the wife of this defendant, and not otherwise.

Said Fleming H. Price came into the State of Arkansas
51 shortly after the War of the Rebellion wholly without means or property of any considerable value, and sought service with defendant. In 1872 he and his brother, Wm. R. Price, bought of the defendant the lands named and described in the complainants' bill. This sale was afterwards modified by said Fleming H. Price becoming the sole owner of said lands and the stock thereon, but he wholly failed to pay for the same. The notes for the purchase-money of said lands and property were secured by a lien on said property, and three *or* these notes, with their equities, became the sole and separate property of Caroline S. T. Hodges, wife of this defendant, amounting, without the interest thereon, to about $15,000 or thereabouts. The notes said Fleming wholly failed to pay
52 or discharge, and said Caroline S. T. Hodges caused suit to be instituted on the same against said Fleming, and prosecuted the same to judgment in the circuit court of Crittenden county, in the State of Arkansas. These notes were a lien on said lands and the stock of mules and horses on said plantation, and under said lien and judgment the said lands and stock were sold by Richard L. Hardin, as the commissioner of said circuit court of Crittenden county, on Monday, the 12th day of February, 1877. Said Fleming H. Price was present at said sale and consented to the sale, when *so* Caroline S. T. Hodges, the wife of defendant, became the purchaser of said lands mentioned in said bill
53 and all the stock of mules and other personal property surrendered by said Fleming and sold by said Hardin under said judgment. The price for the realty was $16,000 and the price for the personalty was $1,241. This sale was duly reported to the court by the said commissioner, Hardin, and the sale was duly and legally confirmed by said circuit —, and a proper conveyance as required — the law of Arkansas was therefore duly and legally made and delivered to said Caroline S. T. Hodges, which was duly ac-

knowledged and rendered, as required by the law of Arkansas, and said conveyance vested in said Caroline S. T. Hodges for her sole and separate use an estate in fee sample in the lands men-
54 tioned and described in said bill, and from the date of said sale to her death said Caroline became and remained the sole owner and possessor of said lands and all the crops and rents thereon made and accruing, and all interest of this defendant ceased therein until the demise took effect under the will of said Caroline named and mentioned in said bill, and in proof of these facts defendant prays liberty to exhibit to the court here a copy of the record of said suit by said Caroline, as plaintiff, against said Fleming, defendant, and the proceedings under the same as a proper part of this answer, marked Exhibit A. And defendant, further answering, says after said sale and said Caroline became the owner of said
55 lands she immediately took possession of the same as her own property, and placed said Fleming in control and management of the same as her manager and agent at a fixed annual salary, and said Fleming so remained in occupancy of said lands as her manager and agent till his death and not otherwise, and all allegations and charges in said bill to the contrary are wholly false and untrue.

Some time after my said wife had become the owner of said lands, to wit, the sect. 16 and the W. $\frac{1}{2}$ of the W. $\frac{1}{2}$ of sect. 15, township 7 north, R. 8, and the stock of mules on said farm, I think in February or March, 1880, she caused a deed to be prepared conveying said land from her to said Fleming, upon the consideration
56 that he would pay her therefor the sum of $12,500 in three instalments—one-third due January 1, 1881, one other third due on January 1, 1882, and one other third due on January 1, 1883—bearing six per cent. interest from January 1, 1879, so as to meet my said wife's debt of about the same amount to St. John. There *was* then twelve mules and one horse on the farm, with farming equipments; these were to go with the land; but said Fleming refused to accept said deed or conveyance, saying that he had just been burdened with a heavy debt and he would not undertake another, but he said his aunt could give him whatever she pleased, and that he would stay and attend to her business on the place for a
57 salary, as he had been doing, until the St. John debt had been paid, and then she could give him what she thought was right and proper. My said wife intended, if said Fleming H. Price staid with her and helped to attend to the business, to turn the place over to him on his paying out of the proceeds of the same the amounts above set forth; but she was under no legal obligation to do so, and defendant expressly sets up and claims the benefit of the statute of frauds in that behalf, and avers that she was under no contract in writing to the end. She estimated the place to be worth $25,000 in these payments. Five or six of the mules and the horses have since died, most of them this year, and the last winter during the overflow the place was badly overflowed, and the
58 fencing most all floated far off and had to be replaced at heavy expense this year, and the cost of making this year's

crop will be quite worth the crops on the place. The deed above mentioned this defendant cannot find, and he does not know but that it may have been distroyed at the time said Fleming refused to accept it, as above said. After this the said farm called the Arnold place was managed by said Fleming as before, as the manager and agent of my said wife. His supplies were purchased and furnished by her, and all the cotton was shipped and disposed of for her, in her name, & he was paid a salary as be-
fore, without the slightest complaint to this defendant or
59 his said wife, from the time the said Caroline purchased said farm, in 1877, as above said, to her death. The books and accounts of the business on the farm managed by him, and which he occupied up to his death, were all kept in said Caroline's name, and Messrs. Clarke, Johnson & Co. paid him his salary on her order; and it is altogether untrue that any deed or conveyance of title to the lands mentioned in complainant's said bill was ever made and delivered to said Fleming, as is pretended and alleged in said bill, or otherwise, or intended to be made and delivered to said Fleming otherwise that hereinabove stated, and which was refused by him, as above stated; and all conversations or seeming, as supposed, ad-
missions of said Caroline or this defendant in reference to
60 said Fleming's title to said lands had only this extent and no more. From said Caroline's purchase of said land under said sale by said Commissioner Hardin, as above stated, up to her death she was the sole owner of said lands, and she never gave them or sold them, or agreed to give or sell them or any part thereof, to said Fleming, or to any one for him, and all charges and intimations in said bill to the contrary are wholly false. Said Fleming never paid her any money or other valuable thing for the same or offered so to pay. After his bankruptcy, in —, he was wholly without means or money for that end. And this defendant repeats and answers
and says it is wholly false that said Fleming, at the date of his
61 death, fully paid for said lands named in said bill, and was in possession of a deed therefor, which has been suppressed or destroyed by this defendant, Asa Hodges, or some one authorized by him to do so, as is charged in said bill. No such deed ever existed, which was made by said Caroline or this defendant or both of them. There was no such deed among the papers left by said Fleming at his death, in said black valise, that ever came to the hands of this defendant, *or* to his knowledge. Such deed never existed and was never executed and delivered to said Fleming, and he never claimed title under it to this defendant, or paid the taxes on said land or claimed to control them or the crops thereon made.
After the sale of the same to the said Caroline she, to said
62 Fleming's constant knowledge, was the sole and only claimant, with her title properly rendered, of said lands and the crops made on the same, and all the stock and implements of the farm thereon, except probably one riding horse, which has been taken away by the husband of said complainant, Anna E. Cameron. This defendant does not know, and said Caroline did not have notice of the alleged conversation which is alleged to have taken place

in September, 1880, in Memphis, about six weeks before the death of said Fleming H. Price and his sister, said Anna E. Cameron, nor did defendant or his said wife, Caroline, ever assent to the same.

63 The statements of said Fleming as to his title to said lands & crops in said bill set forth, if really then made, were wholly untrue, and said land and crops then belonged to his aunt, said Carolina; and said Fleming was not then in possession of said above-described property as owner thereof, growing a crop of cotton and corn thereon, but he was occupying, controlling, the same as the manager and agent of said Caroline, and for her and in her name and not otherwise, and all the allegations and charges in said bill contained to the contrary are false. As to what occurred at and before the death of said Fleming, neither this defendant or the said Caroline were present, and he cannot admit or deny it, but he is advised and believes that it is not truly stated in complainant's said —.

64 When the black valise was handed to said Fleming he took out a bundle of obscene pictures and some letters and put them in the fire and burned them, and the other papers he put back into the valise, but he gave no orders or instructions not to suffer the same to come into the hands of this defendant or the said Caroline. This is all mere fiction. It is untrue that this defendant took violent possession of said papers, but he took the papers found in the valise and brought them away with him, because he supposed they contained the records and receipts for advances and expenditures on the farm which he was then managing and control-ing as the hired agent and manager of said Caroline, and there was no deed to the land named in the bill or the other property

65 on the place from said Caroline or this defendant, or from them both, as is pretended in said bill, to said Fleming, and no will. And it is utterly false that said papers were never demanded from this defendant and he refused to surrender them. If any will was made by said Fleming before his death the same is wholly unknown to this defendant, and he never wrote any such will and never has so admitted, but he understood it as a mere matter of conversation the disposition that said Fleming desired that his sister, Mrs. Cameron, should take two shares and his other heirs one each, of what estate he might have. It is true that the title to said section 16 & W. $\frac{1}{2}$ of W. $\frac{1}{2}$ of sect. 15, T. 7, range 8 east, appears on record in the record office of said Crittenden county, Arkansas, in the

66 name of said Caroline S. T. Hodgers, the wife of this defendant, but it is false that both said Caroline and the defendant, Asa Hodges, soon after the death of said F. H. Price admitted that the property belonged to said Fleming and that they had executed a deed to him; and it is false that when this defendant took said valise and the papers therein that he then and there took and got possession of the unnegotiated deed and the will of said F. H. Price; and it is utterly false that this defendant has surpressed said pretended deed or any other and made away with the will with the intent of robbing complainants. It is false that any such deed or will ever existed, so far as he knows or is informed.

And defendant, further answering, says that it is false that said

F. H. Price was in the actual possession of said lands otherwise
67 than as the manager and agent of said Caroline S. T. Hodges, and it is also false that he had a large and valuable crop of cotton and corn thereon besides stock horses and mules and wagons and farming implements; but defendant avers that said crops and stock, wagons and farming implements, except one horse, were the property of said Caroline S. T. Hodges; and it is also false that this defendant without warrant of authority took and converted said crops and stock and implements or any of them to his own use, but the same was *use* for the use of said Caroline, who was the real and only owner thereof.

Defendant further answers and says that it is false, as avered in said bill, that said Hodges and wife have repeatedly admitted the fact to be that the property was that of said F. H.
68 Price, such admissions having been made to both Anna E. Cameron and her husband and others since the death of said F. H. Price. It is also untrue that this defendant and his wife have always and at any time admitted that the property above described, as stated in said bill, was that of the brother of complainant. No such admission was ever made. It is untrue that the rental of said plantation *have* not been less that from $3,000 to $5,000 per annum. It has been much less, and the same belonged to said Caroline and not to said Fleming. The charge in said bill *to* that it belonged to said Fleming is untrue. It is also wholly untrue that the crop of 1882 is very large and valuable and worth many thousand dollars. It scarcely will more than pay for its production and harvesting. It is true that Mrs. Caroline
69 S. T. Hodges, wife of said Asa Hodges, has recently departed this life. She died on the 19th day of July last testate, leaving said Asa Hodges her whole estate, real and personal, in this State and in Arkansas, and her will has been duly and legally probated, and said Asa Hodges has duly and legally qualified as her executor, as stated in said bill. A copy of said will is hereto annexed as a part here*to*, marked Exhibit B *hereto*. It is true that said Mrs. Hodges, on the 16th day of December, 1878, made a deed of trust to defendant, D. H. Preston, and W. G. C. Humes as trustees to secure to Wm. P. St. John, the adm'r of A. W. Arnold, dec'd, three notes for $5,000, due Jan'y 1, 1879, 1880, and 1881, in which she embraced the property named in said deed lying in Arkansas and the city of Memphis, Tenn., but it is wholly
70 false that said deed was in anywise fraudulent towards said Fleming H. Price or any other person or persons, or that the same was procured by the fraudulent direction of said def't, Asa Hodges, and it is also wholly false and untrue that the property embraced in said trust deed or any part thereof belonged or belongs to said Fleming H. Price or his heirs or any of them. Said deed was made in the utmost good faith and without the slightest fraud toward said Price or any one else and upon the consideration therein named, and said Fleming H. Price had full notice in person and of record of the same and never complained, but acquiesced in the same, so far as ever came to the knowledge of this defendant, the said Caroline, or any

of the parties interested therein. At the time of the execution of
71 said trust deed he occupied said farm as the manager and agent of said Caroline constantly up to the day of his death, and was in the constant and uninterrupted and the most friendly intercourse with her and this defendant all this period up to his death and never complained or objected to said trust deed, though he fully understood it- whole purpose and effect; and the charge in said bill that there was any fraud and any purpose not strictly honest and fair toward said Fleming is wholly false and libillious against this defendant and said Caroline.

This defendant, further answering said bill, say- that the propositions of law therein advanced as to the effect of said deed of
72 trust are founded upon a state of facts which do not exist and which are not admitted. Said property never belonged to said Fleming nor was he or his heirs ever entitle- to the same or the rents and profits thereof or any part thereof. The endorsement named as entered on said trust- deed was a contract made in the usual and lawful course of business and is honest and *bona fide* and done in the utmost good faith and upon valid and sufficient and legal consideration, and the same ought to be sustained and upheld and enforced. There is no resulting trust in the property of said Caroline or right in the complainants or any of them to the property in the trust deed or any other property of the said Caroline in Memphis or elsewhere upon any ground of fact or law really
73 existing. They many have been advised otherwise, but their abuse was silly, and the allegations of facts are utterly false and groundless. There are considerable claims asserted against the estate of said Caroline, and until these are satisfactorily and legally settled *and* this defendant could not consent to any disposition of her estate in Memphis or elsewhere which diminished the capacity of the estate to discharge all its legal liabilities legally settled against it.

It is untrue that complainants are entitled to any indemnity, as falsely pretended in their said bill, and complainants are not entitled to any recourse upon her estate for suit — indemnity, and it is false that the complainants are such beneficiaries, as they falsely
74 pretend in their said bill, and they are not entitled to any such subrogation, as they therein falsely and deceitfully allege and pretend. It is false that any of the property named in the bill belongs to complainants, and without this they have no such equitable rights as those set up, claimed, and alleged in the bill. The debts owing to said Clark are genuine, true, honest, and *bona fide* debts, and are unpaid and undischarged and still owing. The said complainants have no right to have said property empounded, and it is unknown to this defendant that he is being largely — for large sums, and it is false that unless restrained he will make away with the property, as alleged — pretended in said bill; and it is false that — any will of said
75 Fleming H. Price, so far as this defendant knows, is unformed, or believes, he even gave his gold watch to said compl't, J. D. Cameron; and it is wholly false that this defendant, in fulfillment of said will or supposed will, has ever surrendered — said Cameron

said watch. It is also false, as charged or pretended, that said Mrs. Hodges while she had the title of record had actually executed and delivered the deed, or, if not, held the title subject to the call of said F. H. Price whenever she might demand it. No such deed was ever executed and delivered to said Price or held subject to this demand, as is alleged and pretended in said bill. Said —— —— departed this life the owner of said lands subject to said deed of trust, and
76 she was also the owner of all the stock and farm implements of every description, except one horse on said place at her death, and the same passes by her will to this defendant, to be administered under the laws of Arkansas; and there is no such resulting trust as alleged in compl'ts' bill; and this defendant further answer-and says it is not true, but false, that he was at the filing of said bill or now *was or* is a resident citizen *citizen* of Shelby county, in the State of Tennessee, but he has been a resident citizen of Crittenden county, in the State of Arkansas; and, having fully answered compl'ts' several allegations of fact, this defendant, by way of further defense, says that under and by the laws of the State of Arkansas, which State was the home of said Price at the time of his death, and of which State he was a citizen, the administrator
77 is the owner of the personalty of the decedant, and in his hands the real estate and usufructs or crops grown thereupon and assetts in his hand for the settlement of said estate, and he is the owner and entitled to the possession thereof against all parties whatever, and defendant, in fact, says that W. D. Hardie is the administrator of the estate of said Fleming H. Price, dec'd, and as such is alone entitled to declare a sett-ement of this defendant or an account of the crops grown by him in case such should have belonged to the estate of said decedent, and that complainants have no right to maintain this sail and to collect the proceeds of any crops grown on any property belonging to him, the said decedent, and
78 *they* herewith exhibit- a duly authenticated copy of his said letter, and *they* will act upon this defense as fully as if formerally pleaded herein; and, having fully answered, he prays to be thence dismissed.

WEATHERFORD & ESTES, *For Def't.*

Asa Hodgers, the defendant, being sworn, says the matters stated in the above answers are true as far as stated in his own knowledge, and the remainder he believes to be true.

A. HODGES.

Sworn to before me this Oct. 16th, 1882.

W. B. WEISIGER, *D. C.*,
For BELL W. ETHERIDGE, *Clerk.*

79 *Application for Letters of Administration.*

THE STATE OF ARKANSAS, } ss:
County of Crittenden, }

In the Probate Court of said County.

W. D. Hardin, here applying for letters of administration on the estate of Fleming H. Price, late of said county, being first duly sworn, deposes and says that the said Fleming H. Price departed this life, in Crittenden Co., on or about the — day of November, A. D. 1880; that the said F. H. Price died without making any will; that, to the best of his knowledge and belief, the value of the estate of the deceased is about the sum of one thousand dollars; that the names and residence of the heirs of deceased is as follows, viz.,
80 unknown to me, and further deposes and says that he will make a perfect inventory of and faithfully administer all and singular the good and chattels, rights and credits, of the deceased, and pay his debts, as far as the assets which may come to his hands will extend and the law direct, and that he will account for and pay over, according to law, all assets which shall come to his hands or possession, so help him God.

W. D. HARDIN.

Subscribed and sworn to before me this 11th day of September, 1882.

A. H. FERGUSON, *Clerk.*

[Endorsed:] Application for letters of administration on the estate of Fleming H. Price, by W. D. Hardin. Filed the 11th day of September, 1882. A. H. Ferguson, clerk.

81 *Administrator's Bond.*

STATE OF ARKANSAS, *County of Crittenden:*

Know all men by these presents that we, W. D. Hardin, Asa Hodges, and P. H. Daugherty, are held and firmly bound unto the State of Arkansas in the just and penal sum of one thousand dollars; for the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our hands and seals, at Marion, this 11th day of September, A. D. 1882.

The condition of the above obligation is such that if the above-bounden W. D. Hardin, administrator of all and singular the goods and chattels, rights and credits, of Fleming H. Price, deceased,
82 shall make or cause to be made a true and perfect inventory of all and singular the goods and chattels, rights and credits, of the said deceased which have or may come to the hands, posses-

sion, or knowledge of him, the said W. D. Hardin, or into the hands or possession of any other person for —, and the sum so made shall return and exhibit in the office of the clerk of the court of probate for the county of Crittenden within sixty days from the date of the above obligation, and all and singular the goods and chattels, rights and credits, of the deceased which shall come to the hands, possession, or knowledge of the said W. D. Hardin shall well and truly administer according to law and pay the debts of the deceased, as far
83 as his assets will extend and the law direct, and further make or cause to be made just and true accounts of his administration and make due and proper settlements thereof from time to time according to law or the lawful order, sentence, or decree of any court having competent jurisdiction, and shall, moreover, well and truly do and perform all other matters and things touching such administration that are or may be prescribed by law or enjoin on such administrator by the lawful order, sentence, or decree of any court having competent jurisdiction, then the above obligation to be void and of no effect; otherwise to remain in full force and virtue.

In testimony whereof we have hereunto set our hands and
84 affixed our seals the day and year first above written.

W. D. HARDEN. [SEAL.]
ASA HODGES. [SEAL.]
P. G. DOUGHERTY. [SEAL.]

Signed, sealed, and delivered in presence of—
—— ——.

The foregoing bond approved the 11th day of Sept., 1882, and recorded the 11th day of September, 1882, in Book D, page 316.

A. H. FERGUSON, *Clerk.*

[Endorsed:] Administrator's bond. W. D. Harden, administrator of the estate of Fleming H. Price (deceased). Filed the eleventh day of September, 1882, and recorded in Book D, page 316. A. H. Ferguson, clerk.

85 STATE OF ARKANSAS, } ss:
County of Crittenden, }

To all to whom these presents shall come, Greeting:

Know ye that whereas Fleming H. Price, late of the county of Crittenden, died intestate, as it is said, on or about the — day of November, A. D. 1880, having at the time of his death property in this State which may be lost, destroyed, or diminished in value if speedy care be not taken of the same: To the end, therefore, that said property may be collected, preserved, and disposed of according to law we do hereby appoint W. D. Harden, of the county of Crittenden, administrator of all and singular the goods and chattels, rights and credits, which were of the said Fleming H. Price
86 at the time of his death, with full power and authority to secure and dispose of the said property according to law and

collect all moneys due said deceased, and in general to do and perform all other acts and things which are or hereafter may be required of him by law.

In testimony whereof I, A. H. Ferguson, clerk of the circuit court and *ex officio* clerk of probate in and for the county of Crittenden aforesaid, have hereunto set my hand and affixed the seal of said court, at office, this 11th day of September, A. D. 1882.

[SEAL.] A. H. FERGUSON, *Clerk.*

87 STATE OF ARKANSAS, } *ss:*
County of Crittenden, }

I, A. H. Ferguson, clerk of the probate court within and for the county of Crittenden aforesaid, do hereby certify that the foregoing letters of administration were filed in my office for record on the 11th day of September, 1882, and are duly recorded in Record Book D of Probate, page 316.

In testimony whereof I have hereunto signed my name and affixed the seal of said court this 11th day of September, 1882.

[SEAL.] A. H. FERGUSON, *Clerk.*

88 STATE OF ARKANSAS, *County of Crittenden:*

I, A. H. Ferguson, circuit clerk and *ex officio* probate court clerk in and for the county and State aforesaid, do hereby certify that the annexed and foregoing application for letters of administration, administrator's bond, and letters of administration are true, full, and complete copies of the originals now on file in my office, at Marion, Crittenden county, Arkansas.

In testimony whereof I have hereunto set my hand and affixed my official seal of office, at Marion, on this the 13th day of Sept., A. D. 1882.

A. H. FERGUSON,
Circuit and Probate Clerk, Crittenden County, Arkansas,
By E. R. HIGGS,
D. C and R.

89 STATE OF ARKANSAS, *County of Crittenden:*

I, Robert B. Barton, sole and presiding judge of the county and probate courts in and for the county and State aforesaid, do hereby certify that A. H. Ferguson, whose genuine official signature appears to the above and hereto annexed certificate, is and was at the time of signing the same clerk of the circuit and *ex officio* clerk of the county and probate courts in and for the county and State aforesaid, and that all of his official acts as such are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand and affixed the seal of said court on this the 13th day of September, A. D. 1882.

R. R. BARTON, *Judge.*

90 STATE OF ARKANSAS, *County of Crittenden:*

County *ex Officio* Probate Clerk, Crittenden County, Arkansas.

I, A. H. Ferguson, clerk of the circuit court and *ex officio* clerk of the county and probate courts in and for the county and State aforesaid, do hereby certify that Hon. B. B. Barton, whose genuine official signature appears to the above and hereto annexed certificate, is and was at the time of signing the same sole and presiding judge of the county and probate courts in and for the county and State aforesaid, duly elected, commissioned, and qualified as such, and that all of his official acts as such are entitled to full faith and credit.

91 In testimony whereof I have hereunto set my hand and affixed my official seal, at office, in the town of Marion, on this the 13th day of Sept., A. D. 1882.

A. H. FERGUSON,
Clerk Circ't Co. and Probate Court
of Crittenden County, Arkansas,
By E. R. HIGGS, *D. C.*

[Endorsed:] No. 376. Circuit court of the United States, western district of Tennessee. Answer of Asa Hodges. Emma E. Cameron *et al.* — Asa Hodges *et al.* Filed Oct. 17, 1882. Bell W. Etheridge, clerk; W. B. Weisiger, D. C.

92 The answer of Cleaveland B. Clarke, one of the defendants to the bill of complaint exhibited against him, as executor of the last will and testament of E. E. Clarke, deceased, and others in the chancery court of Shelby county, Tennessee, and now removed by order of said chancery court into the circuit court of the United States for the western district of the State of Tennessee, equity side, by Anna E. Cameron and her husband, J. D. Cameron; Mary F. Thompson and her husband, J. A. Thompson; Eudora J. Morton and her husband, W. L. Morton; Laura C. Cobb and her husband, R. W. Cobb; J. E. Price, Lelia Price, and Easton Price, William Price and Lawless Price, minor children and heirs-at-law of W. R. Price, deceased, by their next friend, Lelia Price, complainants.

This deponent, reserving to himself all right of exception to the said bill of complaint, for answer thereto or unto so much
93 and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto—this defendant, answering, saith: He admits that Fleming H. Price died on the 2d of November, 1880; whether testate or intestate, he knows nothing, either personally or from information and belief.

He knows nothing about said Fleming H. Price being married or unmarried or dying without issue, or that his father and mother died anterior to the year 1866. As to the laws of descent and distribution of the State of Arkansas, he knows nothing, and refers the same to the court; as to the relationship of complainants to the deceased

Fleming H. Price, he knows nothing; as to the circumstances attending the last illness and death of Fleming H. Price, as detailed in complainants' bill, he knows nothing and, if material to his defense, calls for proof.

He supposes it to be true that said Fleming H. Price was
94 the nephew of his codefendant, Asa Hodges, and that he had lived with said Hodges several years, but of this he has no personal knowledge, except as to three or four years. He knows nothing of the purchase by Fleming H. Price in 1872 or at any other time of the lands described in complainants' bill, set forth therein as the whole of section sixteen and west half of section fifteen, all in township seven north, range — east, in Crittenden county, Arkansas, or that said Fleming H. had, at the date of his death, fully paid for the same, and that he was in possession of a deed therefor or which had been suppressed or destroyed by his codefendant, Asa Hodges, or some one authorized by him to do so. He denies all knowledge or information of any sort, and of all circumstances which would evidence a suspicion or belief in the facts as alleged and, if material to his
95 defence, calls for proof of each and every such allegation; he denies knowledge or information as to the alleged acts or declarations of his codefendant Hodges in and about the death of said Fleming H. or after his death, as alleged in bill of complaint, and calls for proof of same; he denies all knowledge of any acts or declarations alleged to have been made by Fleming H. to complainant, Anna E. Cameron, in September, 1880, or at any other time, and calls for proof of same if material to his defense; on information and belief he denies that said Fleming H. Price at that time had possession of said lands described heretofore or was owner thereof or was growing a crop of cotton and corn thereon, or that he ever did have possession of said lands as owner; he denies knowledge or
96 information as to said Fleming H. making a will during his last illness or at any other time, and, if material to his defence, calls for proof of same; he denies knowledge or informatiom that a deed for said lands and his will were in a black valise and taken possession of by his codefendant, Asa Hodges, or that the same were demanded of the said Asa Hodges and his refusal to give them up; he calls for proof of same if material to his defense: he knows nothing as to the alleged admissions of said Asa Hodges or his wife, Caroline S. T. Hodges, as to Fleming H. making a will and disposing of his property, and calls for proof of same if material to his defence; defendant admits that the title to said section 16 and west half of the west half of section 15, township 7, range 8 appears on the records of Crittenden county aforesaid in the name of
97 Caroline S. T. Hodges, the wife of his codefendant, Asa Hodges, and avers to the best of his knowledge and belief said records for many years show the same thing, and that Mrs. Caroline S. T. Hodges owned said lands in fee simple up to her death; he denies all knowledge or information as to his codefendant, Asa Hodges, and his wife, Caroline S. T. Hodges, admitting that said lands belonged to said Fleming H. Price or that they had executed a deed for the same to him as alleged,

and calls for proof of the same; he denies knowledge or information that his codefendant took possession of said alleged deed and suppressed or made way with it as alleged, and calls for proof; he denies knowledge of the crops of corn and cotton on said lands when said Fleming H. died or as to the ownership of the stock, horse, mules, wagons, and farming implements on the
98 same. He denies knowledge as to what became of said crops of corn and cotton. He denies knowledge or information as to the alleged admissions and declarations of said Hodges as to the ownership of said property, or as to his refusal to yield possession of the same, and calls for proof of said allegations if material to his defence. He knows nothing as to the rental value of said lands or the cleared land thereon, or the possession thereof by said Hodges and wife, and receiving the crops thereon by them for the years 1880 and 1881, and calls for proof.

He admits that Mrs. Caroline S. T. Hodges, the wife of his codefendant, Asa Hodges, is dead, leaving a last will and testament, in which she devised to her husband, Asa Hodges, her whole estate, real and personal, in the State- of Tennessee and Arkansas;
99 that her said will was duly probated in Shelby county, Tennessee, and that said Asa Hodges was duly qualified as executor of the same.

He denies that the deed of trust made to D. H. Poston and W. Y. C. Humes as trustees to secure to Wm. P. St. John, the administrator of A. W. Arnold, deceased, three notes for $5,000.00 each, due January 1, 1879, 1880, and 1881, was executed by said Caroline S. T. Hodges fraudulently or by the fraudulent direction of his codefendant, Asa Hodges.

And this defendant avers that he knows nothing whatever of any of the transactions out of which the pretended equities of the complainants are supposed to arise, and can neither admit nor deny the charges in the bill in that behalf except as to the validity and *bona fides* of the deed of trust and the transfer to Clarke, Johnson & Co. of the notes secured by the same, the circumstances of which he will specially state.

100 He avers that before said last two notes became due he had an interview with D. H. Poston, one of the firm of Humes & Poston, who held them as agents and attorneys for their then owner, William P. St. John, administrator of A. W. Arnold, deceased, and said Poston proposed to sell and assign the same, with the deed of trust, to Clarke, Johnson & Co., of which firm defendant was a partner, and now the only surviving partner. Said Poston assured this defendant that his firm—Humes & Poston—had authority to assign the same, and that the debt and security were perfectly valid, and that nothing was in the way of their collection. Influenced by these assurances, this defendant, in behalf of said firm, advanced the amount of said debts in cash to the said William P. St. John, or rather to said Humes & Poston, representing him, as agent and attorney. Whereupon the endorsements appearing
101 on the backs of said notes were placed by said Humes and Poston above the blank signature- of said William P. St. John,

and Humes & Poston on one of said notes—the one due January 1–4, 1882—and above the signature of said Humes & Poston on the note due January 1–4, 1881, copies of which notes and endorsements are hereby made exhibits to this answer and prayed to be made a part of the same as Exhibits A and B to answer.

A formal written assignment of said deed of trust was written out and executed by said Humes & Poston, as agents and attorneys of said W. P. St. John, as administrator of A. W. Arnold, dec'd, on the 4th of January, 1881, a copy of which said deed of trust, with its endorsements, is herewith filed as exhibit to this answer and prayed to be made a part thereof as Exhibit C.

102 Said notes and deed of trust were delivered by said Humes to this defendant when assigned, and said deed of trust was regularly recorded in the proper office of records of Crittenden county, Arkansas, on the 17 day of December, 1878, in record book 7, pages 230 to 234, inclusive, and in the register's office of Shelby county, Tennessee, on the 19th December, 1878; and this defendant avers that he assigned the aforesaid promissory notes before they or any of them became due for a full and valuable consideration and without notice of any of the equities or defences now pretended by the complainant- against them. He is, therefore, advised and insists that his right as the holder thereof as surviving partner of Clarke, Johnson & Co. cannot be affected by proof now adduced of any latent equities existing between the complainants or the

103 original parties to the said notes. Defendant likewise avers that on information and belief said Fleming H. Price in his lifetime knew of the execution of said deed of trust and concurred in the same; and this besides the constructive notice of the same by registration in the county of Crittenden, Arkansas, wherein he resided. Wherefore he denies the allegation of complainants' bill wherein it is alleged that said Price never knew of the trust deed, and that the same was executed without his authority or consent. Defendant says as to the payment of the note past due that it was paid by Clarke, Johnson & Co. on order of Mrs. C. S. T. Hodges, but he denies that the second note or third note assigned to Clarke, Johnson & Co. *were* paid off by said Hodges and wife or by any other person.

He denies that said Hodges caused any endorsement to be

104 entered upon the trust deed; that the same was transferred to Clarke, Johnson & Co., as alleged in complainants' bill, and avers that said endorsement or assignment was made by an understanding and contract made between Humes & Poston, representing said St. John, and this defendant, representing Clarke, Johnson & Co. Whether his codefendant Hodges offered to turn over the property claimed by complainants as belonging to the estate of Fleming H. Price, dec'd, on their paying said two notes and interest thereon, he accounting for the crops of 1880 & 1881, this defendant does not know, and if material to his defence calls for proof. Whether the balance of property belonging to estate of Caroline Hodges, leaving out the property claimed as belonging to the estate of Flem-

ing H. Price, is sufficient to pay the debts secured by said
105 deed of trust this defendant does not know; but, as advised, he denies the right of the court to compel him or said Clarke, Johnson & Co. under the law to resort to one sort of property embraced in said deed of trust in preference to another.

Defendant admits that his codefendant, Asa Hodges, is guarantor or surety on said two $5,000.00 notes, and as to the legal rights and liabilities arising under such guarantee he submits as a matter of law to the court claiming whatever benefit the law gives him against his codefendant, Asa Hodges, on his said guaranty. Whether his firm, Clarke, Johnson & Co., received and sold the crops of cotton raised on said lands, section 16 and W. ½ of W. ½ of section 15, town. 7 north, range 8 east, in Crittenden county, Arkansas, embraced as aforesaid in said deed of trust, for the years 1880 and 1881, as averred in complainants' bill of complaint, defendant does not know.
106 Said firm had shipped to them during said years large numbers of bales of cotton by said Caroline S. T. Hodges, but what particular plantations they were raised on this defendant kept no account on the books of his said firm and had no knowledge. He does know that his said firm furnished supplies to said plantations on the orders of said Caroline Hodges and otherwise, and paid out proceeds of said crops far exceeding the net sales of the same, so that at the time of the death of said Caroline Hodges she owed to said Clarke, Johnson & Co. a balance of $2,459.88 and interest thereon, which balance consisted of supplies furnished her on the credit of her separate estate and to keep her several plantations in Crittenden county, Arkansas, and since her death this defendant, as surviving partner of Clarke, Johnson & Co., furnished supplies
107 for the purpose of raising crops of her said plantation, amounting to $1,418.80, which is charged on the books of said firm against the estate of said Caroline S. T. Hodges, dec'd. No part of said amounts have been paid, and they are now past due. If any portion of the cotton raised on said lands last described were shipped to and sold by said Clarke, Johnson & Co. or this defendant he denies the right of the court to appropriate the proceeds to payment of said notes, said deed of trust not including such cotton, and the proceeds of sale being at the disposition of the shipper, Mrs. Hodges, and actually appropriated to her orders and directions. Defendant is perfectly willing to exhibit an account current of his dealings or those of Clarke, Johnson & Co. with said Caroline Hodges, if necessary or if called upon by the court, but as to an account of
108 the proceeds of the cotton raised on the lands claimed for said Price this defendant can give no account, for the reasons stated heretofore. As to the matters in said bill personal to said Asa Hodges or the estate of his said deceased wife, Caroline, this defendant knows nothing, and only requires his own right under said deed of trust and for balance of account against the separate estate and the general estate of said Caroline Hodges, dec'd, to be protected by the court. He denies that said notes assigned to this defendant have been paid off, in part or in whole, by the crops of 1880 & 1881,

or the proper rental of said lands claimed for the estate of said Fleming H. Price.

As advised, he denies the right of the court to impound said lands, &c., or to interfere by such proceeding with the collection of
109 defendant's said notes by the foreclosure of said deed of trust.

As advised, he denies that any resulting trust in favor of the complainants or the estate of said Fleming H. Price could arise from the premises set forth in complainants' bill of complaint which could interfere with or in any way impair the rights of defendant under said assigned notes and deed of trust. As to the allegation in said bill that Mrs. Hodges, whilst she had the title of record to said lands, had actually executed and delivered a deed for the same or held the same subject to the call of said F. H. Price, this defendant knows nothing and calls for proof, and avers that even if such was the case it cannot interfere with his rights under said deed of trust.

By way of cross-bill defendant, C. B. Clarke, as surviving partner of Clarke, Johnson & Co., alleges that on the 16th day of
110 December, 1878, Caroline S. T. Hodges, in conjunction with her husband, Asa Hodges, executed the deed of trust, Exhibit C to this answer, by which they conveyed to W. Y. C. Humes and D. H. Poston, trustees, the following-described real estate, to wit: Section sixteen, township seven (7) north, range eight east, and the west half of the west half of section fifteen (15), township seven (7) north, range eight east, and the northwest quarter of section twenty-two (22), township seven north, range eight east, all in Crittenden county, State of Arkansas; also a lot in the then city of Memphis, now taxing district of Shelby county, Tennessee, on the east side of Shelby street and beginning at a point at the intersection of the south line of Butler street with the east line of Shelby street; thence south with east line of Shelby street 90 feet; thence east
111 parallel with the south line of Butler street 220 feet to an alley; thence north with the west line of said alley ninety (90) feet to the south line of Butler street; thence west with south line of Butler street 220 feet to the beginning, to secure three notes of even date of said deed executed by said Caroline S. T. Hodges and guaranteed by her husband, Asa Hodges, for the sum of five thousand dollars each, due, respectively, on the 1–4 day of January, 1880, 1881, & 1882, each bearing six per centum interest per annum from their date until paid, due and payable at Little Rock, Arkansas, all of which were made to bind the estate separate and general of said Caroline S. T. Hodges, both in the State of Arkansas and elsewhere, two of which notes are now due and unpaid, copies of which are made Exhibits A & B to the foregoing answer
112 and are now made part of this cross-bill.

He avers that before said two notes, Exhibits A & B, became due he had an interview with D. H. Poston, one of the firm of Humes & Poston, attorneys-at-law, and one of the trustees in said deed of trust, who held them as agents and attorneys for their then owner, William P. St. John, administrator of A. W. Arnold, dec'd, to whom they were executed as payee, and said Poston proposed to sell and assign

the same, with said deed of trust, Exhibit C to answer, to defendant's firm, Clarke, Johnson & Co., and of which firm he is the surviving partner; said D. H. Poston assured this defendant that his firm, Humes & Poston, had authority to assign the same, and that the debt and security were perfectly valid, and that nothing was in the way of their collection. Influenced by these assurances
113 this defendant, in behalf of said firm, advanced the amount of said debts in cash to the said William P. St. John or, rather, to said Humes & Poston, representing him as agent and attorney; whereupon the endorsements appearing on the backs of said notes were placed by said Humes & Poston above the blank signature- of said William P. St. John and Humes & Poston on one of said notes—the one due January 1–4, 1882—and above the signature of said Humes & Poston on the note due January 1–4, 1881, copies of which notes and endorsements are made Exhibits A & B to this answer and now made part of this cross-bill.

A formal written assignment of said deed of trust, Exhibit C, was written out and executed by said Humes & Poston, as agents and attorneys of said W. P. St. John, as adm'r of A. W. Arnold, dec'd, on the 4th of January, 1881, as will appear by reference to said
114 Exhibit C. Said notes and deed of trust were delivered by said Humes & Poston to this defendant when assigned, and said deed of trust was regularly recorded in the proper office of records of Crittenden county, Arkansas, on the 17th day of December, 1878, in record book 7, page- 230 to 234, inclusive, and in the register's office of Shelby county, Tennessee, on the 19th December, 1878, as will appear by certificate of the proper officers endorsed on said deed of trust, Exhibit C.

And this defendant avers that he acquired the aforesaid promissory notes for a full and valuable consideration before maturity and without notice of any of the equities or defences now pretended by complainants against them. Defendant likewise avers, on information and belief, that said Fleming H. Price in his lifetime knew of the execution of said deed of trust and concurred in the
115 same, and that his assignor, W. P. St. John, had no notice of any of the equities and defences now pretended by complainant against said notes when delivered or afterwards, and he avers that the assignment of said notes and deed of trust was made by virtue of the understanding and agreement made between Humes & Poston, reresenting authoritatively said Wm. P. St. John, and this defendant, representing his firm of Clarke, Johnson & Co.

He further avers that, in behalf of said firm of Clarke, Johnson & Co., he furnished supplies to the different plantations of said Caroline S. T. Hodges, in the State of Arkansas, on the orders and by direction of said Caroline S. T. Hodges, intending thereby to bind her separate estate, and that by the statutes of Arkansas said supplies are a lien on the crops raised on said plantations; at the time of the death of said Caroline S. T. Hodges she owed to
116 said Clarke, Johnson & Co. on this account a balance of $2,459.88, besides said notes and interest thereon, and since her death defendant, as surviving partner of Clarke, Johnson & Co.,

furnished supplies for the purpose of raising and gathering crops of her said plantations now growing, amounting to $1,418.80, which is charged on the books of said firm against the estate of said Caroline S. T. Hodges, dec'd. No part of said amounts nor any part of said notes have been paid, and they are now past due.

Wherefore defendant prays that all the parties to complainants' bill, both plaintiffs and defendants, be made parties defendants to this cross-bill, and that William P. St. John may likewise be made a party to the same; that writs of subpœna be directed to the said parties, thereby commanding them severally, at a certain day
117 and under a certain pain therein inserted, personally to be and appear before your honorable court, then and there to answer the premises on their several and respective oaths, — according to the best and utmost of their several and respective knowledge, remembrance, information, and belief a full, true, direct, and perfect answer to make to all and singular the matters aforesaid; and defendant prays that said D. H. Poston and W. Y. C. Humes, trustees as aforesaid, be required by an order and decree of this court to foreclose said deed of trust, Exhibit C, according to its terms, and that an account may be taken of what is due and owing to this defendant, as surviving partner as aforesaid, and that defendant, Asa Hodges, as executor of the last will and testament of Caroline S. T. Hodges, may be decreed to pay the same out of the assets of
118 said estate, and that this defendant may have all such other and further relief in the premises as the nature of his case may require or to equity shall seem meet.

C. F. VANCE,
Sol. for C. B. Clarke.

C. B. Clarke makes oath that the statements of the foregoing answer, which he states to be of his own knowledge, are true; those he states from the information of others he believes to be true.

CLEAVELAND B. CLARKE.

Sworn to and subscribed before me October 17th, 1882.

W. B. WEISIGER, *D. C.*

EXHIBIT A to Answer of C. B. Clarke.

Copy of Note.

$5,000. MEMPHIS, TENN., *Dec.* 16, 1878.

Jan'y 1st, 1881, after date I, Caroline S. T. Hodges, agree and promise to pay to the order of William P. St. John, administrator of A. W. Arnold, deceased, the sum of five thousand ($5,000) dollars, for value received; for the payment of which I bind my
119 separate and general estates, both in the State of Arkansas and elsewhere, such note being given in consideration of the transfer and sale to me of a decree in the supreme court of Tennessee in the case of Wm. P. St. John, administrator of A. W. Arnold,

deceased, *vs.* Asa Hodges and others, such decree having been rendered at the April term, 1878, of said court, and which decree and interest amounts at this date to the sum of about $35,000.00. This note is to bear interest at the rate of six (6%) per cent. per annum from date and is due and payable in Little Rock, Arkansas.

(Signed) C. S. T. HODGES.

I, Asa Hodges, become the surety of my wife on this note and guarantee its payment at maturity.

(Signed) A. HODGES.

Copy of endorsements on back of note:

"For value received we hereby transfer and assign the
120 within note to Clarke, Johnson & Co., and also transfer and assign to them all liens, benefits, and security for securing its payment conferred by a trust deed and made in December, 1878, by A. Hodges and wife, conveying Tennessee and Arkansas property, provided only that another note for same amount and date and due January 1, 1882, shall have priority in said deed of trust over this note.

Memphis, Tenn, Jan'y 3, 1881.

(Signed) W. P. ST. JOHN,
Adm'r of A. W. Arnold,
By HUMES & POSTON.

Wm. P. St. John, adm'r, etc., of the estate of A. W. Arnold, dec'd, per Humes & Poston, att'ys. Humes & Poston.

121 Exhibit B to Answer of C. B. Clarke.

Copy of Note.

$5,000.00. MEMPHIS, TENN., *Dec.* 16, 1878.

January 1st, 1882, after date I, Caroline S.T. Hodges, agree and promise to pay to the order of William P. St. John, administrator of A. W. Arnold, deceased, the sum of five thousand ($5,000.00) dollars, for value received; for the payment of which I bind my separate and general estates, both in the State of Arkansas and elsewhere, such note being given in consideration of the transfer and sale to me of a decree in the supreme court of Tennessee in the case of Wm. P. St. John, administrator of A. W. Arnold, deceased, *vs.* Asa Hodges and others, such decree having been rendered at the April term, 1878, of said court, and which decree and interest amounts at this date to the sum of about $35,000.00. This note is to bear interest at the rate of
122 six (6%) per cent. per annum from date, and is due and payable in Little Rock, Arkansas.

(Signed) C. S. T. HODGES.

I, Asa Hodges, become the surety of my wife on this note and guarantee its payment at maturity.

(Signed) A. HODGES.

Copy of endorsement on back of note:

For value received I hereby endorse and transfer to Clarke, Johnson & Co. the within note, together with all liens and securities held by me to secure payment thereof, and especially a deed of trust, executed Dec'r 16th, 1878, by C. S. T. Hodges and Asa Hodges, conveying Tennessee and Arkansas property.

(Signed) WILLIAM P. ST. JOHN,
Administrator of A. W. Arnold, Deceased.
W. P. ST. JOHN,
Adm'r A. W. Arnold, Dec'd,
By HUMES & POSTON,
Attorneys.

123 Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* Answer of Cleaveland B. Clarke and Exhibits A & B. Filed Oct. 17, 1882. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

124 This indenture, made and entered into this the 16th day of December, 1878, by and between Mrs. Caroline S. T. Hodges and her husband, Asa Hodges, of the county of Crittenden and State of Arkansas, of the first part, and W. Y. C. Humes and D. H. Poston, trustees, of the county of Shelby and State of Tennessee, of the second part, and Wm. P. St. John, adm'r, with the will annexed, of A. W. Arnold, dec'd, under and by virtue of letters issued to him by the probate court of Shelby county, Tennessee, witnesseth: That for the purpose of securing to Wm. P. St. John, adm'r, party of the third part, her three notes of even date herewith, each for the sum of five thousand ($5,000.00) dollars, due, respectively, on the 1st days of January, 1880, 1881, 1882, each bearing six per cent. interest per annum from date until paid, due and payable at Little Rock, Arkansas, all of which are made to bind the estate, separate and general, of Caroline
125 S. T. Hodges, both in the State of Arkansas and elsewhere, and upon which notes the said Asa Hodges, her husband, has become guarantor and surety, we, Caroline S. T. Hodges and her husband, Asa Hodges, hereby bargain and sell, and by these presents convey and confirm, unto W. Y. C. Humes and D. H. Poston, trustees, party of the second part, their heirs and assigns, forever, all the right, title, interest, and claim which we have and hold unto the whole of section sixteen (16), township (7) seven north, range eight east; also the west half of the west half of section (15) fifteen, township seven north, range eight east; also the northwest quarter of section twenty-two (22), same range and township, all in Crittenden county, State of Arkansas; also all the right, title, interest, and claim which we have in and to the property which we have in
126 the city of Memphis, county of Shelby, and State of Tennessee, thus described: On the east side of Shelby street, city of Memphis, and beginning at a point at the intersection of the south line of Butler street with the east line of Shelby street, thence south with

east line of Shelby street 90 feet; thence east parallel with the south line of Butler street 220 feet to an alley; thence north with the west side of said alley ninety (90) feet to the south line of Butler street; thence west with the south line of Butler street 220 feet, to the beginning, this Memphis property being the same property for which Mrs. Caroline S. T. Hodges has this day executed her notes to the clerk of the supreme court at Jackson, Tennessee, in purchase of the same at a sale made in the case of Wm. P. St. John, adm'r, *vs.* Asa Hodges and others, and which notes they are to satisfy; to have and to hold *with* the said W. Y. C. Humes and D. H. Poston, trustees, said second parties, their heirs and assigns, forever,
127 with whom said Caroline S. T. Hodges covenants that she is seized in fee in her own right as a separate estate of the aforesaid and described property; that it is free from all incumbrances; that she has full right to sell and convey as aforesaid, and to charge the same for the payment of said notes, and the title thereto she will forever warrant and defend against the right, title, interest, and claim of each, all, and every person whomsoever.

But this is a trust deed. Now, should the indebtedness hereby secured be promptly paid at maturity, then this trust deed to become satisfied and of none effect, and said trustees shall recover by quit-claim deed the property hereby conveyed to Mrs. Caroline S. T. Hodges, her representatives and assigns. Should either note remain due and unpaid at maturity, or any portion thereof remain
128 due and unpaid, then said trustees or either of them may, after due advertisement of time, place, and terms of sale for (20) days in any Memphis newspaper, put up and sell the Memphis property above described and conveyed to pay said debt and interest then due, together with the costs and expenses of executing the trust. In the event the net proceeds of sale fail to produce a sum sufficient to pay so much of said debt as may then be due, then the said trustees or either of them may, after like advertisement of time, place, and terms of sale, sell the Arkansas property hereby conveyed, such sale to be at public auction, to the highest bidder for cash, and shall be freed from redemption or repurchase or any exemptions for homestead or other exemptions—rights existing under and by virtue of any laws of the State of Arkansas—all of which exemptions,
129 &c., are hereby waived, and the purchaser shall get an absolute title in fee simple.

In the event of the sale of the property or any portion thereof at a price in excess of the sums then due such excess shall not be paid over to said Hodges and wife, but shall be credited on any notes due as of the date of sale until all of said notes so secured hereby are fully paid off, and then any excess shall be paid over to said Caroline S. T. Hodges, her representatives or assigns. In the event that any taxes, charges, or assessments *upon* hereafter accrue or now exist against the property hereby conveyed then it shall be the duty of Caroline S. T. Hodges and her husband, Asa Hodges, to remove the same, which they hereby obligate themselves to do; and in the event of their failure so to do, then said trustees may at once discharge the same, which sum shall be repaid from the trust fund

and at once become a charge upon the property aforesaid
130 and secured by this instrument; and if the same is not repaid by or before the maturity of either of said notes falling due thereafter, then said trustees or either of them may sell the whole or a sufficiency of the aforedescribed property to repay said taxes, with proper interest and costs; and in the event of a sale for the purposes last aforesaid, for a sum in excess of the amount due them, such excess shall be entered as a credit upon the balance due and secured by the trust deed. In the event of a sale of the whole of the above-described property at a sum less than the debt hereby secured and then unpaid, for the balance remaining due and unpaid said trustees or either — are hereby authorized or empowered, without notice to either the said Asa or Caroline S. T. Hodges, to go into any court of competent jurisdiction in the States of Ten-
131 nessee and Arkansas and confess judgment against said Caroline S. T. Hodges and Asa Hodges, her husband, and, without the right of appeal or review such judgment to be entered so as to bind the estate, separate and general, of said Caroline S. T. Hodges, and to be for so much as the debt, with interest then remaining unpaid, may amount to. It is further stipulated that in the event of a sale hereunder the possession of the property so sold shall be at once delivered to the purchaser, and for this purpose it is expressly agreed and stipulated that said trustees or either of them may, in the proper court of competent jurisdiction, in the States of Tennessee or Arkansas, confess judgment as in ejectment in favor of the purchaser and for such possession, which said confession may be without notice to said Hodges and wife or either of them and without the right of appeal
132 or review. Either trustee may act in the premises in case of the absence, death, removal, or refusal of the other to act, and all the acts and things of both or either done in the premises we do as fully ratify and confirm as if done in our own proper persons, said Hodges and wife fully ratifying and confirming the same.

In the event of a sale it is agreed that (5%) five per cent. on the gross amount of the sales shall be allowed to the trustees as commissioners for selling, and that all right or equity of redemption is waived in the event of the sale, and the purchaser shall get an absolute title in fee simple. The oath, bond, and security of the trustees are waived by all parties who consent to their acting without giving or taking either.

In testimony whereof witness our hands & seals this 16 day of December, 1878.

C. S. T. HODGES. [SEAL.]
133 A. HODGES. [SEAL.]

STATE OF TENNESSEE, *County of Shelby,* } *ss:*

Before me, Lowry W. Humes, a notary public in and for the State and county aforesaid, appointed, qualified, and commissioned to take probate of deeds, &c., for registration and use in the State of Tennessee, personally appeared Asa Hodges and Caroline S. T.

Hodges, his wife, and the said Asa Hodges, one of the within-named bargainors, with whom I am personally acquainted, *and who* acknowledged that he executed the within trust deed for the purposes therein contained; and the said Caroline S. T. Hodges, wife of said Asa Hodges, with whom I am personally acquainted, having appeared before me privately and apart from her said husband, acknowledged the execution of said deed to have been done by her freely, voluntarily, and understandingly, without compulsion
134 or constraint of her said husband, and for the purposes therein expressed.

Witness my hand and seal of office this 16th day of December, A. D. 1878.

[L. S.] LOWRY W. HUMES,
Notary Public.

STATE OF TENNESSEE, *County of Shelby:*

On this day came before me, a duly commissioned, qualified, and acting commissioner for the State of Arkansas, Lowry W. Humes, residing in Memphis, Tennessee, Asa Hodges and Caroline S. T. Hodges, his wife, to me well known as the grantors in the foregoing trust deed, and the said Asa Hodges stated that he had executed the same for the consideration and purposes therein mentioned and set forth; and also voluntarily appeared before me the said Caroline S. T. Hodges, in the absence of her said husband, and declared that she had of her own free will executed the same for
135 the purposes therein contained and set forth without compulsion or undue influence of her said husband.

Witness my hand as such commissioner on this 16th day of December, 1878.

[L. S.] LOWRY W. HUMES,
Commissioner for the State of Arkansas.

STATE OF ARKANSAS, *County of Crittenden:*

I, A. H. Ferguson, clerk of the circuit court and *ex officio* recorder for said county, do hereby certify that the annexed and foregoing instrument of writing was filed in my office for record on the 17th day of December, 1878, and duly recorded this 17 day of December, 1878, in record book 5, pages 230, 231, 232, 233, & 234.

Witness my hand and official seal, at office in Marion, this 17th day of December, 1878.

[L. S.] A. H. FERGUSON,
Clerk and Recorder.

136 STATE OF TENNESSEE, *Shelby County:*

The foregoing instrument, with clerk's certificate, was filed in my office for registration on the 18th day of Dec., 1878, at 1 o'clock p. m., and noted in note book No. 9, page 100, and was recorded on the 19th day of Dec., 1878, in record book No. 125, page 682. Fee, 2.25; paid.

F. R. HUNT, *Register.*

EXHIBIT C to Answer of C. B. Clarke. Filed Dec. 17, 1878. A. H. Ferguson, clerk and recorder.

Deed of Trust. Asa Hodges to D. H. Poston.

The first note for ($5,000.00) five thousand dollars & interest, due January 1st, 1880, and secured hereby, has this day been paid to us and the trust to that extent satisfied.

137 Dec. 5, 1879.

D. H. POSTON, *Trustee, &*
HUMES & POSTON,
Att'ys for Wm. P. St. John, Adm'r, &c., of A. W. Arnold.

The within deed of trust is hereby assigned and transferred to Clarke, Johnson & Co. to secure payment of the two notes therein last falling due.

Memphis, January 4, 1881.

W. P. ST. JOHN,
Adm'r of A. W. Arnold, Dec'd,
By HUMES & POSTON, *Att'ys.*

138 STATE OF TENNESSEE, *County of Shelby:*

Personally appeared before me, F. P. Poston, a notary public in and for the county and State aforesaid, Mrs. Lizzie Barton, of lawful age, who, being first duly sworn, on oath says about two months ago, shortly after the death of Mrs. Caroline S. T. Hodges, in company with Mrs. Anna E. Cameron, she called upon Asa Hodges at his residence, in this city; that Mrs. Cameron went to see Mr. Asa Hodges in reference to the estate of her deceased brother, Fleming H. Price. In that conversation, which was quite lengthy, said Asa Hodges distinctly said that the real estate in Arkansas occupied by F. H. Price, her brother, belonged to him, altho' the title was in his, Asa Hodge's, wife's name, and that his, Asa Hodge's, wife had frequently of-

139 fered to deed the property to said Price, but that said Price said to her Aunt Callie, You keep the title for me, and whenever I want it I will get you to make it to me; remarking that he was so dissipated that he would waste and throw it away. This conversation occurred in this interview between Asa Hodges and Mrs. Cameron, his niece, and myself, said Hodges remarking to his niece, Mrs. Cameron, that if she would let him alone he might make her this year the deed, or next year, and not to sue him.

MRS. LIZZIE P. BARTON.

Sub. & sworn to before me October 20th, 1882.

[L. S.] F. P. POSTON,
Notary Public.

Endorsed: Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. v.* Asa Hodges *et al.* Affidavit of Mrs. Lizzie Barton. Filed October 27, 1882. Bell W. Etheridge, clerk; W. B. Weisiger, D. C.

140 UNITED STATES OF AMERICA,
— *Division of the Western District of Tennessee:*

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its May term, A. D. 1882, at the United States courthouse in the city of Memphis, in said district, on, to wit, the 27 day of October, A. D. 1882, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiff-,
vs.
ASA HODGES and Others, Defendant-. } No. 376.

This cause coming on to be heard on the motion of defendant Hodges to dissolve the preliminary injunction heretofore granted by the chancellor of the State chancery court, and the same having been argued and considered, it is ordered that so far as the same affects the right of defendant Hodges to dispose of the real estate in
141 the bill described the motion is denied; but in so far as it affects the right of defendant Hodges to use, collect, and dispose of the growing crops and other personalty mentioned in the bill the motion is allowed, and to that extent the injunction is dissolved. The plaintiffs have leave within ten days from this date to move to reinstate this injunction.

142 On Equity Side of the Circuit Court of the United States for the Western Division of the Western District of Tennessee, at Memphis.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

Replications of the complainants to the answers of Cleveland B. Clarke and Asa Hodges.

These repliants, saving and reserving to themselves all and all manner of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the answers of the said defendants, for replication thereunto, saith that the will aver, maintain, and prove their said bill to be true, certain, and sufficient in law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive, and in-
143 sufficient in the law to be replied unto by these repliants, without that, that any other matter or thing in the said answer contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all of which matters and things these repliants are ready to aver, maintain, and prove as this honor-

able court shall decree, and humbly pray as in — by their said bill they have already prayed, &c., &c., &c.

HUMES & POSTON,
Sol'rs for Repliants.

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. v.* Asa Hodges *et al.* Replication of complainants to answers of Asa Hodges and C. B. Clark. Filed Dec'r 11, 1882. Bell W. Etheridge, cl'k; W. B. Weisiger, D. C.

144 *Deposition of Judge T. M. Peters, Taken by Consent, for Defendants.*

In the U. S. Circuit Court, Memphis, Tennessee.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

1. Please state your residence, business, and connection with defendants and their relationship to each other.

Ans. I live at present at Judge Hodges', in Crittenden county, Arkansas; am a lawyer by profession, and have known intimately, since the year 1853, defendant, Asa Hodges, and his wife, now dead; have known Fleming H. Price intimately since 1876; have been attorney for them all, and am now attorney for defendant, Asa Hodges, in some of his business. I also know the other defendants. Asa Hodges was the uncle of F. H. Price, deceased, and the hus-
145 band of Mrs. C. S. T. Hodges, deceased, and is now her executor and sole legatee.

Int. 2. What do you know, if anything, of the real estate involved in this suit and of its ownership and occupancy?

Ans. I am very well acquainted with the real estate in question, and know something of its title. I know that since March 12, 1877, it has been the property of Mrs. C. S. T. Hodges; that she has been in possession of it from that time, claiming it as her own, until her death. I was also informed by Fleming H. Price, deceased, at the gin-house of his uncle, Asa Hodges, about two days before his fatal sickness, that the said tract of land belonged to his Aunt Caroline (meaning Mrs. C. S. T. Hodges); that he had no title to it, and was merely occupying it and carrying on the farm as her manager and agent; that the land and crops raised upon it belonged to her
146 and not to him.

Int. 3. How did Mr. Price come to make this statement to you?

Ans. I had been away from the farm, and heard, on returning, that he had received accidentally a severe blow on the head from a sledge-hammer that had slipped off the handle, and I went to the gin-house to see him. He was marking cotton bales at the time. I did not understand the mark, and asked him whose cotton it was. He answered that it was Aunt Carrie's cotton (that is, Mrs. C. S. T. Hodges'). I think — asked where it was raised. He said it was raised on the Arnold place, which is the land in controversy. I

then asked if his Aunt Carrie had ever made him a deed to that place, as we had talked about the deed before. He replied, No; she had not. He said that she wanted him to take the land and
147 pay off the mortgage upon it, and that she would give him a title to it, with the mules, implements, &c., upon it, and that he refused to take it in that way. This had been the subject of conversation with us before, she having expressed a willingness to make to him a deed on the terms proposed, as I knew from her.

Int. 4. To what mortgage do you refer, and when was it executed?

Ans. I refer to a mortgage or trust deed executed by Mrs. Hodges and her husband to Mess. Humes & Poston to secure the St. John's debt in December, 1878, and is referred to in the bill in this suit.

Int. 5. Have you any knowledge whether or not Mr. Price was aware of the existance of this trust deed; if so, when did he learn of it and from whom?

Ans. He had actual knowledge of it. I told him myself
148 soon after its execution, and he replied that his aunt had already told him, and desired him to take the place off her hands and to pay the debt.

Int. 6. Had you ever any conversation with her on this subject; if so, to what effect?

Ans. Yes; she requested me to get her nephew, Price, to take the place and pay the debt to St. John and relieve her of the trouble of it. I did so and offered to prepare or possibly did prepare a deed as proposed, but he declined to take it upon the terms proposed, and no deed was ever delivered as far as I know or heard of.

Int. 7. Had you any knowledge of the making of a will by Price or of what became of it?

Ans. No, none in the world, and never heard that one was made until after his death.

Int. 8. Who was his legal adviser at the time, and who would probably have been called to make his will?

149 Ans. If he had any at all it was myself or his Uncle Asa. I had attended to all his law business. He had no other attorney.

Int. 9. What property did he have at his death, and how do you know?

Ans. He had a horse and watch and wearing apparel. He owed me a small fee, and had told me a short time before that he was unable to pay it without taking them.

Int. 10. Were you at his burial; if so, how was he attended to?

Ans. Yes; I was present. He was carefully and tenderly treated and buried. His Uncle Asa was sick at the time and not able to attend to it. There was some miscarriage about the coffin. He was kept out of the ground a day longer than was expected, and his uncle said his burial was only temporary; that he intended removing the remains to Elmwood.

Int. 11. What was the trouble about the coffin?

150 Ans. The first burial case was too small and had to be returned 14 miles across the river to Memphis and exchanged, and it was stated at the time when the second coffin was brought

that the remains would then be allowed to come into the city; hence the burial there.

Cross-examined by W. K. POSTON, attorney for complainants:

X Q. 1st. On what plantation or place did your conversation with Fleming Price that you have detailed in answer to direct question 2 occur?

Ans. At the gin-house, on the plantation called the "Home Place."

Q. 2. How far was that from the plantation called the "Arnold Place?"

Ans. By the road, about three miles; on a direct line, about two miles.

Q. 3. When and where did that conversation occur, and who were present besides yourself and Fleming Price?

151 Ans. I have already stated where it was in 1880, in the last part of October or early in November; it was just two days before I understood he was taken sick of the illness of which he died. I think it was Friday or Saturday; that is the impression on my mind. I do not remember any white person being there except Price and myself. There were some negroes near around baling cotton, but I do not know whether they were near enough to hear the conversation.

Q. 3. How long had Fleming Price lived on and cultivated the Arnold place?

Ans. I think he and his brother William went there in 1873 and cultivated it together. The two brothers held the place until 1875; then Fleming Price bought William's interest and held — until March 12th, 1877; then it was sold and Mrs. C. S. T. Hodges purchased it; he occupied it and cultivated it since then to the time of his death.

152 Q. 4. Do you know of your own knowledge what became of the crops grown on said Arnold place for the years 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, & 1882? Where were they sent for sale, and for whose account?

Ans. I do not know anything about it of my own knowledge.

Q. 5. For how long past have you lived in Crittenden county, Arkansas, and how near to the Arnold place?

Ans. I have been in said county, residing at Mrs. Hodges' plantation, called the "Home Place," once or twice a year during courts there since 1876, sometimes a considerable time before the courts and sometimes a considerable time after the courts; I think as long as two months at a time when courts were held. Courts were held regularly in that county twice a year since 1876 except one or two times, when the court was not held at the regular time,

153 but was shortly after the regular times. When there I always staid at the Home place, and I have already stated how near that was to the Arnold place.

Q. 6. In your answer to direct question 2 you stated a conversation with Fleming Price. Do you mean to say that you have stated

there the exact language said by you and him in that conversation, or only your present recollection of the substance of what was said?

Ans. I can state more than my present recollection of the substance of what was said.

Q. 7. How long after he received the hurt you spoke of did you get to him?

Ans. My understanding was he received the hurt the day before I saw him.

Q. 8. At the time you had the conversation with him were you his lawyer?

Ans. I do not think I was; I do not remember that he had
154 any cause in court in which I was his lawyer; I had acted, though, as his lawyer.

Q. 9. How long before that conversation had you acted as his lawyer?

Ans. I think the last case I had for him was his petition in bankruptcy, filed in April, 1878, in U. S. court, at Ashner, Arkansas. He was discharged in 1879 and, I think, in April; and after that he had no litigation that I know of.

Q. 10. At the time you had your said conversation with him was it or not understood between him and you that you were his lawyer, generally retained for any law business he might have?

Ans. On his part I do not know what his opinion was; on my own I did not consider I was.

Q. 11. What lawsuits, if any, did he have since you first
155 knew him and who was his lawyer in those cases?

Ans. He had a lawsuit with Mr. J. F. Dowdy, in circuit court of Crittenden county, Arkansas, I think, in 1876. I was Price's lawyer in that suit. He had another lawsuit with his aunt, C. S. T. Hodges, begun in 1876 or 1877. I was Mrs. Hodges' lawyer in that case. I do not think Price had a lawyer or made defense in that case; that was a suit by Mrs. Hodges against Price to foreclose vendor's lien on "Arnold place." I think the property was sold in March, 1877, and final decree at next term of the court. He had another lawsuit with his aunt, Mrs. M. J. Phillips, in same court, suit by her to foreclose vendor's lien on another tract of land in Crittenden county. I represented Mrs. Phillips and filed the bill,
and as far as I remember he had no lawyer and made no
156 defense. I may have drawn up his answer, but do not recollect definitely. He had another lawsuit, brought by his aunt, Mrs. C. S. T. Hodges, against Fleming Price, as administrator of Reuben Check, brother of (Mrs. Hodges), to get a settlement of accounts of Check, as trustee for her estate, left by her father's will. This suit was in same court and was brought before 1879. I was her attorney and filed the bill. I do not think he ever employed a lawyer or answered the bill. I do not recollect that he had any other lawsuit that I was connected with except through his uncle, Asa Hodges. He was his Uncle Asa's security on debts amounting to $7,000.00. Judgments were rendered against both in U. S. district
court and executions levied on the Arnold place and the place
157 on which Mrs. Phillips foreclosed her lein. The executions were

returned, and I never heard anything more of them. Hodges went into bankruptcy and Price had no title that was vendible under execution. I was consulted and retained in that matter by Hodges, but I think Price never consulted me about it. I was consulted and retained in this matter, I think, early in 1876. I do not remember any other litigation in which Price was a party or interested.

Q. 12. Do you remember that the foreclosure proceedings of Mrs. Hodges and Mrs. Phillips were on sales made by them to Price or sales made by Asa Hodges to Price?

Ans. The foreclosure suit of Mrs. Hodges was on a sale by Asa Hodges to Price and I think Mrs. Phillips also, but am not sure.

158 Q. 13. What relation is Mrs. Phillips to Asa Hodges?

Ans. A sister.

Q. 14. When did Fleming Price die? How long before his death had he been confined to his bed with the sickness of which he died?

Ans. I think he died on the 2d of November, 1880. I think he had been confined to his bed not longer than ten days before his death.

Q. 15. Where were you the night of his death and the next day?

Ans. I was on said "Home place" the night of his death and the next day.

Q. 16. Where was Asa Hodges the night Price died?

Ans. I think he was at said "Home place;" he was unwell—abed—occasionally complaining of being quite unwell, and in bed part of the time, but about able to get about.

Q. 17. How soon the next morning after Price's death did you first hear of it?

159 Ans. He died about eight o'clock in the morning, and I think Jimmie Hodges came down at once and told us of it.

Q. 18. Was Asa Hodges with you when you first heard of it?

Ans. My recollection is that he was the one that told me.

Q. 19. How soon after that did Asa Hodges go to the Arnold place, where Price's body was?

Ans. I do not remember about that.

Q. 20. Did he go there that day?

Ans. I cannot answer that of my own knowledge.

Q. 21. Where did you stay that day?

Ans. I staid that day at the Home place.

Q. 22. Cannot you remember at all whether Asa Hodges went that day to the corpse of Price?

Ans. I cannot recollect whether he did or not. He went out of the house in the morning, but I did not follow him. That was in the morning, and I do not remember to have seen him again until night.

160 Q. 23. Did Asa Hodges show you the day of Fleming Price's death or shortly thereafter a lot of private papers of Fleming Price's which were in his possession at the time of his death?

Ans. He brought home a lot of papers which he said were Price's

325 The re-examination of Thomas M. Peters and the testimony of W. F. Maddox & W. D. Hardin, taken before me, the undersigned, special commissioner, at my office, in the town of Marion & the county of Crittenden and State of Arkansas, on the 26 day of December, 1882, in pursuance to the notice hereto attached, said depositions to be read on behalf of the defendants.

R. F. CRITTENDEN,
Special Commissioner.

THOMAS M. PETERS, a witness of lawful age, was then & there to me produced for re-examination upon his depositions heretofore taken, to be read in this cause on behalf of the defendants, &, after being by me duly sworn, on his oath said:

I have heretofore given my deposition in this cause &, as far as I recollect, I did not detail all the conversations I had with Mr. Price in regard to his ownership of the "Arnold tract" of land. I
326 had a conversation with Mr. Fleming Price in reference to the title *to the title* to "Arnold place," about the October term — Crittenden circuit court, 1880, & in that conversation Mr. Price told me that his aunt Caroline—*i. e.*, Mrs. C. S. T. Hodges—ha offered to make him a deed to the "Arnold place" and the farmin stocks upon it if he would pay her a sum of money, between twelv (12) and fifteen (15) thousand dollars, but I do not remember the sum precisely. She said that she would indulge him as much as possible in the payments, & that when she paid off the balance of the "St. John" debt she would release or forgive him the balance of the debt. He said that he had refused to take the place on her terms, and that she had never made him any deed to the "Arnold place." He then said that if she would make him a title to two acres of land, at the corner at the 15-Mile bayou, near where
327 Richard Hardin had a store, & help him build a house on it & furnish him five or six hundred dollars' worth of goods, that he would be very glad to get it; that he was a good merchant, & that he could make more money there than he could upon the "Arnold place." I then asked him if he intended me to communicate that to his aunt & his uncle, Asa Hodges, & he said he did, & that he would like to know what they said about it. This was about the 18th or 19th of October, 1880. As we came down to court, in the morning, I communicated it to his uncle, Asa Hodges. That same evening Hodges said, Tell him he had better stay where he is; that if he had a store at the 15-Mile bayou he would drink himself to death in six months, but added you can tell Mrs. Hodges about it, & I am willing that she shall do as she pleases. The next time I met Mrs. Hodges, which was not long afterwards, I told her,
328 & she said, I am willing to do anything my husband wishes, but I prefer that Fleming (Mr. Price) should stay on the "Arnold place" & manage it for me; I will pay him a good salary. I believe this is about all in substance that occurred at that time. I afterwards met Mr. Price and told him that his uncle & his aunt refused his request about the store at the 15-Mile bayou; I do

returned, and I never heard anything more of them. Hodges went into bankruptcy and Price had no title that was vendible under execution. I was consulted and retained in that matter by Hodges, but I think Price never consulted me about it. I was consulted and retained in this matter, I think, early in 1876. I do not remember any other litigation in which Price was a party or interested.

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Q. 18. Was Asa Hodges with you when you first heard of it?

Ans. My recollection is that he was the one that told me.

Q. 19. How soon after that did Asa Hodges go to the Arnold place, where Price's body was?

Ans. I do not remember about that.

Q. 20. Did he go there that day?

Ans. I cannot answer that of my own knowledge.

Q. 21. Where did you stay that day?

Ans. I staid that day at the Home place.

Q. 22. Cannot you remember at all whether Asa Hodges went that day to the corpse of Price?

Ans. I cannot recollect whether he did or not. He went out of the house in the morning, but I did not follow him. That was in the morning, and I do not remember to have seen him again until night.

160 Q. 23. Did Asa Hodges show you the day of Fleming Price's death or shortly thereafter a lot of private papers of Fleming Price's which were in his possession at the time of his death?

Ans. He brought home a lot of papers which he said were Price's

Q. 48. Do you know what stock, cattle, and other personal property were on the Arnold place at the time of Price's death?

Ans. No; I do not.

Q. 49. Do you know how much land was in cultivation of that place in the year 1880?

Ans. No; not of my own knowledge.

Q. 50. Do you know how much land on that place was in a fit condition to be cultivated in the year 1880?

Ans. No; I do not know that.

Q. 51. You say Hardin was appointed administrator of Fleming Price's estate last August or October, the crop of 1880 being disposed of, and he has never applied for private papers of Price.
167 State, if you know, what object there could have been in his appointment.

Ans. I do not know anything about it at all.

Q. 52. How old are you; how long have you been practising law?

Ans. 71 years old; since the fall of 1836.

Re-examined:

1. You speak in X interrogatory 3 of Fleming Price having been on that place since 1875, and in X interrogatory 12 or 13 of the foreclosure suit, &c. Please state how Mrs. Hodges came to bring that suit, for what amount it was brought, and whether or not Price recognized the subsequent ownership by Mrs. Hodges of said property.

Ans. There was a balance due for purchase-money from Price to Hodges of about $15,000, which was secured by promissory notes. These notes came into the hands of Mrs. Hodges from Mr.
168 Dowdy, the commission merchant, who owed her a considerable sum of money, and she put the notes into my hands as an attorney to collect. I brought suit in Arkansas in her name for that purpose, which suit, according to the practice in that State, was a suit for debt and to foreclose the vendor's lien. It was against Price and Asa Hodges. I obtained judgment on the notes and a decree for the foreclosure of the vendor's lien, under which the land was sold and purchased by Mrs. Hodges, as I have already stated, on the 12th March, 1877. Price was present at the sale, aided in its conduct, and consented fully to all that was done, after which the commissioner, R. L. Hardin, put her in possession of the place. I was there with her, attending to the matter as her counsel,
169 and under my advice she put Fleming Price in possession as her manager. She then agreed to pay Price a salary for his services, but the amount of the salary was not then fixed, and Price thereupon took possession of the place as her manager, and, so far as I know, this relation was never changed.

Re-ex. 2. Will you please exhibit, as a part of your answer, a certified copy of the commissioner's deed to Mrs. Hodges and of the court's order confirming the sale?

Ans. Yes.

It is agreed that the witness may swear to this or that it may be used in evidence, complainants' counsel reserving the right to further X examine the witness.

November 7th, 1882.

HUMES & POSTON,
Att'ys for Complainants.

And further deponeth saith not.

THOS. M. PETERS.

170 Sworn to and subscribed before me this November 7, 1882.

[L. S.] J. P. YOUNG,
Commissioner for Arkansas in Shelby County, Tenn.

Transcript.

Mrs. C. S. T. HODGES *against* FLEMING H. PRICE *et al.*

Exhibit to Judge Peters' Deposition.

Mrs. CAROLINE S. T. HODGES
vs.
FLEMING H. PRICE and ASA HODGES.

Index to record:

Bill of complaint, pages 1 to 7, with endorsements.

Answer of F. H. Price, pages 8 and 9, with endorsements.

Separate answer of A. Hodges, pages 10 and 11, with endorsements.

Price's deed, Exhibit "A," pages 12, 13, and 14, with endorsements.

W. R. and F. H. Price, deed of Arnold place, "B," pages 15, 16, 17, 18, 19, and 20, with endorsements.

Fleming H. Price's notes, Exhibit C, page 21, with endorsements.

Hardin, commissioner, deed to Mrs. Hodges, pages 22 to 25, with endorsements.

Caption of chancery court, page 26, with endorsements.

Decree for Mrs. Hodges, pages 21, 144, 4, 26, 27, 28, 29, and 30.

171 Hardin's appointment as receiver, pages 30 and 31.

Caption, April term chancery c't, 1877, page 31.

Receiver's report rec'd, page 31.

Report confirmed, page 32.

Decree on report of Hardin, receiver, pages 32, 33, 34, 35, and certificate.

To the Hon. L. L. Mack, judge of second judicial district of Arkansas, in chancery sitting, in and for said county of Crittenden, in the State of Arkansas:

Respectfully complaining, your oratrix, Caroline S. T. Hodges, who is a resident citizen of the State of Arkansas, states, charges, and shows unto your honor as follows, to wit:

That oratrix is a married woman, the wife of Asa Hodges, and that she owns and possesses a considerable separate estate, both real and personal, lying, being, and situate in the said State of Arkansas, and that in this suit she sues to recover her separate estate, in which her husband has no interest, and this
172 action concerns plaintiff's separate property only.

2. That heretofore, to wit, on the 14th day of May, A. D. 1872, said Asa Hodges sold and conveyed, by instrument in writing of that date, the following-described lands and real estate to William R. Price and Thomas H. Price, to wit, section sixteen and the W. ½ of the W. ½ of section fifteen, all in township seven north, of range eight east, situate, lying, and being in Crittenden county, in the State of Arkansas, for and in consideration of the sum of thirty thousand dollars, to be paid as is shown and stated in said Hodges' deed for title to said lands, executed and delivered by said Asa Hodges to said William R. Price and said Fleming H. Price on said 14th day of May, A. D. 1872, which said deed is hereto appended and marked Exhibit A, and prayed to be taken — considered as a proper part of this bill of complaint.

173 3. Oratrix further shows, states, and charges that at the time of the sale and conveyance of the lands above named by said Asa Hodges to said Prices a lien was retained on said lands for security for the payment of the purchase-money therefor, as more fully appears from said Exhibits A above said, which lien has never been released or discharged.

4. Oratrix further shows and states and charges that after said Price had so purchased said lands above said and taken possession of the same under said contract of purchase, to wit, on — day of August, 1874, said William R. Price sold and conveyed his interest in said lands to said Fleming H. Price in consideration that said Fleming H. Price would and did assume the payment of all the purchase-money for said lands then remaining unpaid, and
174 discharge and release said William R. Price from all liability for the same, and pay said William R. Price the further sum of three thousand dollars in addition to his discharge from further liability for said purchase-money as above said, and thereupon said Fleming H. Price executed his own individual promissory notes for the balance of the purchase-money for said land then remaining unpaid, and substituted the same for the promissory notes of said William R. Price and said Fleming H. Price, all — which more fully appears from said conveyance of — day of August, A. D. 1874, a copy of which is now referred to and appended to this bill of complaint and marked Exhibit B, and made to be taken and considered as a proper part of this bill of complaint. Oratrix states and
175 charges that said sale of said William H. Price to said Fleming H. Price was not intended to release and did not release or discharge the lien on said lands for the payment of said purchase-money therefor or any of the property mentioned in said Exhibits A and B, and the same lien still remains in full force and undischarged.

5. Oratrix further states and charges that after the sale of said

lands by said Asa Hodges to said William R. Price and said Fleming H. Price and after said Prices had taken possession of said lands under said sale and accepted said Asa Hodges' deed for title to the same, as shown in said Exhibit A hereto, the oratrix became the real and *bona fide* owner and possessor, for her sole and separate use and property and for a valuable consideration, of five of the promissory notes given for the purchase-money for said land, to wit: One
176 note for the sum of five thousand dollars, falling due and payable on the 1st day of January, A. D. 1873; and one other note for the sum of five thousand dollars, falling due and payable on the 1st day of January, A. D. 1874; and one other note for the sum of five thousand dollars, falling due and payable on the first day of January, A. D. 1875; and one other note for five thousand dollars, falling due and payable on the 1st day of January, A. D. 1876; and one other note for five thousand dollars, falling due and payable on the 1st day of January, A. D. 1877; all which said notes are endorsed by said Asa Hodges and thus belong to oratrix as a part of her sole and separate estate, and they bear interest, as appears from the face thereof, at ten per cent. per annum from date, and the same are secured by a vendor's lien on said lands and
177 also upon the crops growing on said lands, as appears from said Exhibits B and A and from notes and the endorsements thereon hereto appended and marked Exhibit C and prayed to be taken and considered as a proper part of this bill of complaint.

6th. Oratrix further says that she is informed, and so verily believes and charges and states, that the balance and residue of the purchase-money for said lands, save and except the balance due and owing to her oratrix, has been fully paid off and discharged.

7th. Oratrix further shows and charges and states that she has been paid and has received in payment on said notes so owned and possessed by her as above said the sum of about seven thousand and five hundred dollars, which sum was so paid as of the 21 day
178 of February, 1876, and the balance due and owing on said notes is wholly unpaid and undischarged and still owing and now due, save said note which falls due on the 1st day of January, 1877, and she is entitled to have and to receive the same said balance due and owing on said notes as a part of her sole and separate estate and property, and no other person or persons has or have any right or interest in or to the same.

8th. Oratrix further says that said William R. Price has been fully discharged from all liability for the payment of said notes for said purchase-money, and he has no interest in said lands or the crop thereon, or in the matter in controversy in this suit.

9th. Oratrix further states and shows that said Fleming H. Price has and owns a crop of cotton and corn now growing on said lands, and of other products, which is of great value and which is
179 liable for the payment of said sums of money due and owing on said notes above said, as appears from said Exhibits A and B above said, and plaintiff says that said crops and other property is in danger of being lost, and she insists that said crops and other personal property named in said Exhibits A and B shall

be taken charge of by a receiver of this court and the same converted into money and applied to the payment of her said debt evidenced by said notes.

10. Oratrix further states and charges that said lands and property named and described in said Exhibits A and B above said are liable to be sold for the payment of the balance of the debt due and owing to her, and said balance of said debt is secured by a lien in her favor on said lands and property, and she is entitled to
180 have said lien enforced in her favor as the owner and possessor of said notes, and as the transferee and assignee of said notes and said lien, as is shown in said Exhibits A and B, and by said notes and the assignment to her as above stated, and she is entitled to have said lien enforced in her favor and for her use and benefit in like manner and to every extent and purpose that could have been done in favor of the original vendor of said land (said Asa Hodges); and said lien has never been in anywise impaired and discharged or released, but the same remains in full force and effect and the same is assigned to her by force and effect of said indorsement on said notes as above said, and the same remains in full force and effect in her favor and for her use and benefit as for her sole and separate estate.

181 10. Oratrix further states and charges that the said Asa Hodges has no right or interest in said notes or the said deeds securing payment of the same, or to the said sums of money due thereon, but the same belongs solely to her, her separate estate.

11th. Oratrix (plaintiff) further states that the first one of said notes for the price of said "Arnold place" has been fully paid off and the note surrendered and balance of said debt of said F. H. Price owing and now due for said Arnold place, principal and interest, up to November 1, 1876, is about the sum of twenty-one thousand one hundred and forty-nine — and four cents and the amount owing on the note falling due January 1, 1877, is $796.24, all which more fully appears — a schedule hereto appended, marked Ex-
182 hibit D and prayed to be taken and considered as a proper part of this complaint. The premises considered, oratrix prays that said Fleming H. Price and said Asa Hodges be made, by proper process of this honorable court, proper parties defendant to this bill of complaint; that they be required to answer the same on oath, as required by law and the rules of this honorable court; that by decree of this court that the balance of oratrix's said debt be ascertained; that said crops and said lands be decreed to be liable to be sold for payment of the same, and that the said crops and lands be sold and proceeds thereof be applied to the payment of said debt due and owing oratrix on said notes, and for all other and further relief that the nature of her case and equity requires, allows, &c.

THOS. M. PETERS,
Sol. for Oratrix.

183 STATE OF ARKANSAS, *County of Crittenden:*

Asa Hodges says that he is the agent of the plaintiff in the above suit, said Mrs. Caroline S. T. Hodges, who is now absent from Crittenden county, and that affiant believes the statements of the foregoing complaint are true.

ASA HODGES, *Agent.*

Sworn to before me this 27th day of October, 1876.

WM. DANDRIDGE, *J. P.*

STATE OF ARKANSAS, *Crittenden County:*

Thomas M. Peters says that he is the attorney for the plaintiff, Mrs. Caroline S. T. Hodges, who is absent from Crittenden county, and affiant believes that the statements of the foregoing complaint are true.

THOS. M. PETERS,
Att'y for Mrs. Hodges.

Sworn to before me this 30th day of October, 1876.

JOHN SWIPTON, *Clerk.*

184 Endorsed: Mrs. Caroline S. T. Hodges *vs.* Fleming H. Price and Asa Hodges. Filed Oct. 30, 1876. Jno. Swipston, clerk. Parties: Mrs. Caroline S. T. Hodges *vs.* Fleming H. Price and Asa Hodges. Exhibits: Exhibit "A," Asa Hodges' deed to Wm. R. and F. H. Price, May 24, 1872; Exhibit "B," Wm. R. Price's deed to F. H. Price, Aug., 1874; Exhibit "C," F. H. Price's notes for land.

185 *Answer of F. H. Price.*

In the Circuit Court of Crittenden County, Arkansas. Fall Term, 1876. In Equity.

Mrs. CAROLINE S. T. HODGES, Plaintiff,

vs.

FLEMING H. PRICE — ASA HODGES, Defendants.

The separate answer of Fleming H. Price, one of the defendants, to the complaint of Mrs. Caroline S. T. Hodges, plaintiff in the above-entitled suit.

This defendant, Fleming H. Price, saving and reserving to himself all legal and proper objection and exception to said complaint, for answer thereto says and states as follows—that is to say:

1. This defendant, Fleming H. Price, says that he here now admits, in open court, that all the charges, statements, and obligations in said complaint contained are true and correct as therein shown

and set forth, and he, this defendant, said Fleming H. Price,
186 here now, in open court, agrees and consents that such decree of this honorable court may be rendered and entered in favor of said plaintiff, Mrs. Caroline S. T. Hodges, against him, this defendant, said Fleming H. Price, in this suit, as the facts and statements in said complaint may justify and equity may allow, with cost; and having fully answered he prays to be hence dismissed, &c.

F. H. PRICE, *Pro Se.*

THE STATE OF ARKANSAS, *Crittenden County:*

The defendant, Fleming H. Price, says that the statements of the foregoing answer are true and correct.

F. H. PRICE.

Sworn to before me this 31st day of Oct., 1876.

WM. DANDRIDGE, *J. P.*

Endorsed: Filed Oct. 31, 1876. Jno. Swepston, clerk.

187 *Answer of Asa Hodges.*

In the Circuit Court of Crittenden County. Fall Term, 1876. In Equity.

Mrs. CAROLINE S. T. HODGES, Plaintiff,

vs.

FLEMING H. PRICE and ASA HODGES, Defendants.

The separate answer of Asa Hodges, one of the defendants, to the complaint of Mrs. Caroline S. T. Hodges, plaintiff in above-entitled suit.

For answer to said complaint this defendant, Asa Hodges, says and states as follows—that is to say:

1. This defendant, Asa Hodges, says that he admits that all the statements, obligations, and charges in said complaint of said plaintiff contained are true and correct as therein set forth and stated, and he waives all evidence and proof of the same as to him (this defendant); and this defendant, Asa Hodges, here now disclaims all right, title, and interest in and to the matters in controversy in this
188 suit; and having fully answered said complaint he prays to be hence dismissed with his cost and reasonable charges, &c.

A. HODGES, *Pro Se.*

THE STATE OF ARKANSAS, *Crittenden County:*

The defendant, Asa Hodges, says that the statements of the foregoing answer are true and correct.

A. HODGES.

Sworn to before me this 31st day of Oct., 1876.

WM. DANDRIDGE, *J. P.*

Endorsed: 461. Mrs. Caroline S. T. Hodges *vs.* Fleming H. Price and Asa Hodges. Answer of F. H. Price and Asa Hodges. Filed Oct. 31, 1876. Jno. Swepston, cl'k. Asa Hodges, *pro se.* F. H. Price, *pro se.*

189 THE STATE OF ARKANSAS, *Crittenden County:*

Know all men by these presents that I, Asa Hodges, and Caroline S. T. Hodges, wife — said Asa Hodges, have this day bargained, sold, and delivered, and do by these presents grant, bargain, and sell, unto William R. Price and F. H. Price, for and in consideration of thirty thousand dollars, secured and paid as hereinafter described, a tract of land known *known* as section sixteen and the W. ½ of W. ½ of section fifteen, all in township 7 north, of range 8 east, situated in said county and State aforesaid. Said William R. Price and said F. H. Price agree and promise to pay said Asa Hodges or his assigns ten thousand dollars on the 1st day of next January, with ten per cent. interest from date; five thousand dollars on the 1st day of January, 1874, with ten per cent. interest from date; five thou-
sand dollars, with ten per cent. interest, on the 1st day of
190 January, 1875; five thousand dollars, with ten per cent. interest from date, on the 1st day of January, 1876, and five thousand dollars, with ten per cent. interest, on the first day of January, 1877, all of which payments are evidenced by William R. Price and F. H. Price's notes of this date. Now the said William R. and F. H. Price herein promise and agree that the said several notes shall not only remain as a lien on said lands for the ultimate security and payment of said notes, but said notes shall be and remain an actual and subsisting lien upon both the land and the crops made thereon until the said notes and interest is finally paid off and discharged, except so much of said crops as are necessary to pay for making, producing, and gathering the same, and so much of said
crops as are necessary to pay for making and gathering the
191 same, so as not to exceed two-thirds of said crops, are exempt from any lien herein above provided. Now, if said William R. and F. H. Price shall fail to pay off and discharge said notes and interest as they severally mature, then the said Asa Hodges or agent or assignee have the right and power under and by virtue of this deed to take possession of said crops and said land and advertise the same for sale for thirty days, to take place on the premises, and then proceed to sell said place or land and crops, or so much thereof as will pay off and discharge the amount due and unpaid on said notes. Said Asa Hodges and his wife, C. S. T. Hodges, warrant the title to said land and the possession immediately and will forever defend the title against all persons, and hereby convey to said W. R. and
F. H. Price a title in fee simple to said land, consisting of
192 eight hundred acres, more or less, and free from incumbrances, except as herein provided and created by this deed.

May 14th, 1872.

ASA HODGES.
C. S. T. HODGES.

We agree and consent to perform all the stipulations and provisions in the foregoing deed and hereby acknowledge the same.

May —, 1872.

W. R. PRICE.
F. H. PRICE.

STATE OF ARKANSAS, *Crittenden County:*

I, John Swepston, clerk of the county court and *ex officio* recorder within and for said county, do hereby certify that the annexed and foregoing is a true copy of the original deed, properly acknowledged, and now on file in my office for record.

Witness my hand and official seal, at office in Marion, this 31st day of May, 1872.

JOHN SWEPSTON,
Clerk & Recorder.

193 Endorsed: "A." No. 461. Deed. Hodges and wife to W. R. Price and F. H. Price. Copy. Exhibit A to Mrs. Hodges' bill against F. H. Price. Filed Oct. 30th, 1876. John Swepston, clerk.

STATE OF ARKANSAS, *Crittenden County:*

Know all men by these presents that on the 14 day of May, 1872, Asa Hodges sold to W. R. Price and F. H. Price the Arnold tract of land consisting of the W. ½ of the W. ½ of sec. 15; also section sixteen, in township seven north, of range 8 east, situated in said county and State, for the sum of thirty thousand dollars, payable in installments as follows: Ten thousand dollars the 1st of January, 1873, five thousand the 1st of January, 1874, five thousand
194 dollars 1st of January, 1875, five thousand dollars 1st of January, 1876, five thousand dollars the 1st of January, 1877, and with interest at ten per cent. per annum from the 14 day of May, 1872, upon each installment or note until paid, which notes were secured by a lien, both upon the said land and all the crops made thereon, until paid, except enough of said several crops to pay the expenses of making and gathering the same each year so as not to exceed in expenses one-half of the value of said crops in making and gathering the same. Now, since said sale a payment of five thousand has been made on said first note and a balance of twenty-five thousand dollars remains, with interest, unpaid to the holders of said notes:

195 William Price, being joint purchaser of said place, has this day sold his interest in said tract or parcel of land and all his interest in and to the crops, tools, mules, cattle, &c., belonging or in any — connected with said place; also all the interest of said William R. in and to the Peters tract of land, to wit, the N. W. ¼ of sec. 17, E. ½ of sec. 18, and E. ½ of sec. 19, all in township 7 north, range 8 east, and all the interest of said William R. in the present growing crops on said place, both cotton and corn, farming tools, cattle, hogs, mules, wagons, &c., on said Peters place to said Fleming H. Price for and in consideration that said Fleming H. assigns and pays off said several notes aforesaid, and the further consideration that said Fleming H. pays to said Wil-

liam R. the further sum of three thousand dollars, one-half on or by the 1st day of November next, the other half
196 1st day of January, 1875, secured by said Fleming H.'- draft drawn on J. F. Dowdy, of Memphis, and accepted by said Dowdy for said additional sum of three thousand dollars; the said William R. also transfers and sells all his interest in and to all the accounts and claims due and owing from the labors and the hands up to the present time on both the Peters and Arnold places, together with all liens said William R. may hold against said hands to secure the ultimate payment of any of said accounts to the said Fleming H. and his assigns; said William R. doth bargain, sell, and convey all his interest in said real personal property above described, and hereby conveys such title to the same as he may have or possess, and none other, to said Fleming H., his heirs and assigns, and
197 doth hereby put said Fleming H. in possession of all the above-described property in compliance with said contract herein expressed and agreed. The said Fleming H. has this day taken up all of said notes signed by himself and said William R. for said balance of said twenty-five thousand dollars and interest, and executed his notes for said sums, less said payment of five thousand dollars made on said notes, and dated said notes on the same day and made them severally payable on the several same days as provided in the original notes and deed, and hereby consents and agrees that said several notes this day executed for said balance of twenty-five thousand dollars, with interest, and being for the
198 purchase-money of said Arnold tract of land described as aforesaid—that the payment of said several notes are herein made a lien on said land and the said several crops which may hereafter be raised on said land until said notes and interest are fully paid off. The original provisions and stipulations is said original deed *is* hereby contained herein and made a part of this agreement and hereby agreed to by said Fleming H. and the holders of said notes as assignees. A further lien is hereby created by said Fleming H. upon the cotton and corn which may be raised on the Peters place herein described to secure the payment of said balance of twenty-five thousand —, as well as upon the mules and farming tools of both of said places herein described; and, in further
199 consideration of said J. F. Dowdy accepting said drafts for the said sum of three thousand dollars herein agreed to be paid by said Fleming H., by said William R., a lien is hereby agreed to and acknowledged by said Fleming H. in favor of said J. F. Dowdy to secure the prompt and ultimate payment of said sum of three thousand dollars upon the real estate herein purchased from said William R. and known as the Peters tract — land, as described herein and made a part of this deed.

We severally agree and undertake to carry out the agreement and stipulations herein made and contained this — day of August, 1874.

W. R. PRICE.
F. H. PRICE.

Witnesses:
R. W. DOWDY.
C. W. STURDIVANT.

200 STATE OF ARKANSAS, *Crittenden County:*

Personally appeared before me, W. D. Hardin, clerk of the circuit court in and for the county aforesaid, F. H. Price, grantor — the within and foregoing deed of conveyance, and to me well known, and stated that he had executed the same for all the purposes and considerations therein expressed and set forth, and I do so certify.

Witness my hand and official seal this 6th day of Oct., 1874.

[SEAL.] W. D. HARDIN, *Clerk,*
By R. L. HARDIN, *D. Clerk.*

STATE OF ARKANSAS, *Crittenden County:*

I, W. D. Hardin, county clerk within and for said county, do hereby certify that on this day personally appeared before me R. W. Dowdy, the subscribing witness to the foregoing deed,
201 who, being by me first duly sworn, on his oath stated that he saw W. R. Price subscribe said deed for the uses, purposes, and considerations therein expressed, and that he subscribed the same as attesting witness at the request of said grantor.

R. W. DOWDY.

Witness my hand and official seal this 12th day of October, 1874.

Sworn to and subscribed before—

W. D. HARDIN, *Clerk,*
By R. L. HARDIN, *D. C.*

STATE OF ARKANSAS, }
Crittenden County, } *ss:*

I, W. D. Hardin, county clerk and *ex officio* recorder within and for the county of Crittenden and State aforesaid, do hereby certify that the annexed instrument of writing was filed in my office for record on the 6th day of August, A. D. 1874, and that the
202 same, together with the certificate of acknowledgement thereto, is now duly recorded in Record Book P, page 110.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office, this the 14th day of Oct., A. D. 1874.

[SEAL.] W. D. HARDIN,
Clerk & Recorder,
By R. L. HARDIN,
Deputy Clerk.

Filed this August 6th, A. D. 1874.

W. D. HARDIN, *Clerk,*
By R. DAVIS, *D. C.*

Endorsed: "B." 461. W. R. and F. H. Price. Deed for Arnold place and Peters place. Exhibit B to Mrs. Hodges' bill against F. H. Price. Filed Oct. 30th, 1876. John Swepston, clerk.

$5,000. On the 1st day of January, 1874, I agree and promise to pay to Asa Hodges the sum of five thousand dollars, with in-
203 terest at the rate of ten per cent. *per cent.* per annum until paid from this date, which amount is due for a part of the purchase-money for the Arnold tract of land, to wit: Section sixteen; W. ½ of W. ½ of section 15, all in T. 7 N. of R. 8 east.

This 14th day of May, 1872.

F. H. PRICE.

Endorsed: $625. Cr. by cash, six hundred and twenty-five dollars. 21 Feb'y, 1876.

(Endorsed on back:) Asa Hodges.

$5,000. On the 1st day of January, 1875, I agree and promise to pay to Asa Hodges five thousand dollars, with ten per cent. interest from date until paid, which amount is due as a part of the purchase-money for the Arnold tract of land, to wit: The section sixteen and W. ½ of W. ½ of sec. 15, all in T. 7 north of R. 8 east.

This 14 day of May, 1872.

F. H. PRICE.

(Endorsed on back:) Asa Hodges.

204 $5,000. On the 1st day of January, 1876, I agree and promise to pay Asa Hodges five thousand dollars, with interest at ten per cent. per annum until paid, which amount is due in part for the purchase-money of section sixteen, W. ½ of W. ½ of sec. 15, all in township seven north of R. 8 east.

May 14, 1872.

F. H. PRICE.

Endorsed: Asa Hodges.

$5,000. On the 1st day of January, 1877, I agree and promise to pay to Asa Hodges five thousand dollars, with interest at ten per cent. per annum from date until paid, which amount is due as a part of the purchase-money for the Arnold tract of land—sec. sixteen and W. ½ of W. ½ of sec. 15, all in township 7 north of R. 8 east.

This 14th day of May, 1872.

F. H. PRICE.

Endorsed: Asa Hodges.

Endorsed: No. 461. Fleming H. Price's notes to Asa Hodges for Arnold place, the property of Mrs. C. S. T. Hodges. Exhibit C to Mrs. Hodges' bill against F. H. Price. Filed Oct. 30, 1876. John Swepton, cl'k.

205 STATE OF ARKANSAS:

Whereas heretofore, to wit, on the 30th day of October, 1876, Mrs. Caroline S. T. Hodges, as plaintiff, instituted suit by complaint in equity in the Crittenden circuit court, in the State of Arkansas, against Fleming H. Price and Asa Hodges, as defendants, and prose-

cuted the same to judgment in said court; and whereas said Mrs. Hodges, as —, obtained a decree and recovered judgment in said court against said Fleming H. Price for the sum of twenty-one thousand one hundred and forty-nine dollars and four cents, besides costs; said judgment was recovered at the fall term, 1876, of said court, and at the same time there was a decree rendered by said court in said suit in favor of said Mrs. Hodges against said Price of foreclosure of the vendor's lien on the lands named and de-
206 scribed in the said plaintiff's complaint in said suit, to wit, the section sixteen and the W. ½ of the W. ½ of section fifteen, all in township seven north, range eight east, situated and being in the county of Crittenden, in said State of Arkansas; and whereas I, Richard L. Hardin, was appointed by order of said court in said decree commissioner of said court to take possession of said lands and sell the same, as such commissioner, under said decree, on the failure of said Price to pay and satisfy the sum adjudged to said Mrs. Hodges by said decree within the time therein prescribed; and whereas said Price wholly failed to pay and satisfy the sum so decreed to said Mrs. Hodges as aforesaid and costs of said suit or any part of the same; and whereas after said failure I, said Richard L. Hardin, as commissioner aforesaid, took possession of said lands
207 and advertised the same for sale under said decree on the 12th day of February, 1877; said advertisement was made as required by law and in full and exact conformity to the requirements and directions of said decree; and whereas the sale of said lands by the agreement and request of said Price was made upon the premises, between the hours appointed by law, and in parcels as shown in my report of the same to said court bearing date February 12th, 1877, which report was duly confirmed and approved by said court; and whereas said sale of said lands was made at public auction to the highest bidder upon the terms directed in said decree, and Mrs. Caroline S. T. Hodges became the purchaser thereof at the price and sum of sixteen thousand dollars; and whereas, said Mrs. Hodges being the highest and best bidder
208 for said lands at said sale, she executed and delivered to me, as such commissioner as aforesaid, her two several bonds for the price thus bid by her for said lands at said sale, as required by said decree—that is to say, one bond for the sum of eight thousand dollars, with Wm. D. Hardin as security, payable to me in three months after date, and dated February 12th, 1877, and bearing interest from date for one-half the purchase-money for said lands so bid by her, and one other bond for the sum of eight thousand dollars, with Wm. D. Hardin as security, payable to me within four months from date, and dated February 12th, 1877, and bearing interest from date, which said bonds are filed with my said report of sale in said court; and whereas said Mrs. Hodges has paid and discharged
209 all the costs of this suit and the expenses and costs of said sale, and the execution of said decree, as appears by receipt thereof on file in the papers of said suit; and whereas also sums mentioned in said bonds, and all interest accruing thereon, has been fully paid and satisfied by crediting the amount thereof upon the

sum so decreed to her against said Price, as she is and was allowed to do by said decree, and said bonds are fully discharged and paid, with all accruing interest thereon: Now, therefore, in consideration of the premises and the full payment of said sum of sixteen thousand dollars and all interest thereon so bid by said Mrs. Hodges for said lands at said sale thereof by me, as such commissioner as aforesaid, on said 12th day of February, 1877, which payment of said bonds is hereby acknowledged—

210 I, Richard L. Hardin, as commissioner as above said, have and do hereby grant, bargain, and sell unto said Mrs. Caroline S. T. Hodges, her heirs and assigns, forever the following tracts or parcels of lands—that is to say: Section sixteen and the W.½ of the W.½ of section fifteen, all in township seven north, range 8 east, situate and being in the county of Crittenden, in said State of Arkansas, so purchased by her at said sale on the 12th day of February, 1877, as above said; to have and to hold the same said lands and all appurtenances thereto *to* in anywise belonging to her and her heirs and assigns forever; and such title of said lands as is vested in me, as commissioner as aforesaid, and such as I am authorized to sell and convey, as such commissioner, as above

211 said, I do and will hereby warrant and defend to said Mrs. Hodges, her heirs and assigns, forever, and none other.

Witness my hand and seal this July 17th, 1877.

R. L. HARDIN, [SEAL.]
Commissioner.

Witness:
WM. DANDRIDGE, *J. P.*

THE STATE OF ARKANSAS, *Crittenden County:*

On this 17th day of July, 1877, before me, William Dandridge, a justice of the peace in and for said county of Crittenden, State of Arkansas, appeared in person R. L. Hardin, to me personally well known as the person whose name appears upon the within and foregoing deed of conveyance as the party grantor, and stated that he had executed the same for the consideration and purposes therein mentioned and set forth, and I do hereby so certify.

212 In testimony whereof I have hereunto set my hand as such justice of the peace, in the county of Crittenden, in said State, this 17 day of July, 1877.

WM. DANDRIDGE, *J. P.*

THE STATE OF ARKANSAS, *Crittenden County:*

Examined and approved by the court this April 30th, 1878.

L. L. MACK,
Judge of Crittenden County Circuit Court.

Certificate of Record.

STATE OF ARKANSAS, *Crittenden County:*

RECORDER'S OFFICE.

I, John Swepston, circuit clerk and *ex officio* recorder in and for said county, do hereby certify that annexed and foregoing writing was filed in my office for record on the 20th day of July, A. D. 1877, and duly recorded on this 21st day of July, A. D. 1877, in deed record- of this office, in Book L, page 294.

Witness my hand and official seal, at office, in Marion, this 21st day of July, A. D. 1877.

[L. S.] JOHN SWEPSTON,

213 *Clerk and Recorder.*

Chancery Record.

STATE OF ARKANSAS, *County of Crittenden:*

MONDAY, *October* 23*d*, 1876.

On this 23d day of October term, 1876, the same being Monday and day appointed by law for holding the regular term of the circuit court of Crittenden county, was present his honor L. L. Mack, judge of the second judicial district of Arkansas, and was also present and in due attendance John Swepston, clerk of the circuit court of said county, and Edward B. Lewis, high sheriff of said county, and said court having — duly opened by proclamation of said sheriff, the following proceedings were had, to wit:

WEDNESDAY MORNING, OCTOBER TERM, 1876.

Be it remembered that at the above-named term of said court and on the 1st day of November, it being a day of said term,

214 amongst others the following proceedings — had, viz:

Decree for 21,149.04.

THE STATE OF ARKANSAS:

In the Circuit Court of Crittenden.

CAROLINE S. T. HODGES, Plaintiff,

vs.

FLEMMING PRICE, Defendant.

This cause, coming on to be heard at the present term, is submitted by the plaintiff upon the complaint and the exhibits thereto, A, B, C, and D, and by the defendants on the several answers, and it is agreed and consented by said defendant (said Flemming H. Price) that the balance of the plaintiff's debts owing and now due on said promissory notes in the complaint mentioned is the sum of twenty-

one thousand one hundred and forty-nine dollars and four cents, the same being the balance of the purchase-money for said land named in said complaint, and known and described as the W. ½ of the W. ½ of section fifteen and section sixteen, in township
215 seven, in range eight east, lying in said county of Crittenden and State of Arkansas, over and above the sum owing on said promissory notes for five thousand dollars, which sum last above said falls due and becomes payable on the first day of January, 1877, and which is not included in the above balance of twenty-one thousand one hundred and forty-nine dollars and four cents, besides the costs of this suit.

It is therefore ordered and adjudged and decreed by the court here that Caroline S. T. Hodges (said plaintiff) have and recover of the said Fleming H. Price, said defendant, said sum of twenty-one thousand one hundred and forty-nine dollars and four cents, the balance of said purchase-money now due, including principal and interest up to the first day of November, 1876, together with the costs by her about her suit in this behalf
216 expended; and it is further decreed that said debt of twenty-one thousand one hundred and forty-nine dollars and four cents aforesaid, together with the sum aforementioned in said promissory note for five thousand dollars and interest thereon, which falls due and becomes payable on the 1st day of January, 1877, is a lien and charge on said lands known and described as the W. ½ of the W. ½ of section fifteen and section sixteen, in township seven north of range eight east, lying and being in said county of Crittenden aforesaid, and also the crops on said lands now being thereon, and also on all the mules and all the farming tools which were on the place- known as the "Arnold place" and the "Peters place," in said county of Crittenden, on the day of the date of the contract in
217 writing, filed as an exhibit to said complaint and marked as Exhibit "B," to wit, on the 5th day of August, 1874, which crops, mules, and farming tools belong*ing* to and are the property of said Fleming H. Price (said defendant); and unless the said Fleming H. Price, said defendant, shall and does, within sixty days from the first day of November, 1876, the date of this decree, pay to the said Caroline S. T. Hodges (said plaintiff) said sum of twenty-one thousand one hundred and forty-nine dollars and four cents aforesaid and all interest thereon, together with the costs and charges of this suit, then Richard L. Hardin, the commissioner of this court, *make* and shall take possession of said lands mentioned in said complaint and known and described *at* the west ½ of the west ½ of section fifteen and section sixteen, in township seven (7) north
218 of range eight east, lying and being in said county of Crittenden, and the crop- thereon being and all the mules and all the farming tools above said which belong to and are the property of said Fleming H. Price (said defendant) and sell the same, or so much thereof as shall and may be necessary and sufficient to pay off, discharge, and satisfy said sum of twenty-one thousand one hundred and forty-nine dollars and four cents above said and all interest thereon and the costs and charges of this suit; and the one-half

the sum and price bid for said lands so ordered to be sold shall be on credit of three months and the other half of the sum and price bid for said lands so ordered to be sold shall be on a credit of four months, and the sum and price bid for said
219 crop and mules and farming tools shall be on a credit of three months, and the purchaser or purchasers at said sale shall execute a bond or bonds, with good security, to be approved by said Hardin, as such commissioner as aforesaid, for the sums so bid by said purchaser or purchasers, payable and conditioned as required by law, and deliver the same to said Hardin, commissioner as aforesaid. Said sale shall be at public auction to the highest bidder at the dwelling-house on said section sixteen aforesaid, after due and proper notice given of the time, place, and terms of said sale and description of the property to be sold, in the manner required of sheriffs in sheriff sales of like property in said county of
220 Crittenden, and out of the proceeds of said sale said Hardin, as commissioner as aforesaid, shall first pay the costs of this suit and the expenses and charges of executing this decree, and then apply the balance of such proceeds to the payment of the plaintiff's said debt of twenty-one thousand one hundred and forty-nine dollars and four cents, and all interest thereon above decreed to her, and the residue, if any, of said proceeds, after the payment of the costs, expenses, and charges above said and of said debt above said, so decreed to said plaintiff as above said, he, said Hardin, as such commissioner as aforesaid, shall bring into this court to await the further order thereof touching the same; and said Hardin, as commissioner as aforesaid, shall, upon the full payment of the purchase-money for said property herein by this decree ordered
221 to be sold as above said, make and deliver a proper conveyance of the title to the property so sold to the purchaser or purchasers hereof, and put said purchaser or purchasers into possession of the same—said property thus sold by him as commissioner as aforesaid; and the said Caroline S. T. Hodges (said plaintiff) is and shall be permitted by herself or agent to become a purchaser at said sale, and, after first paying the costs of this suit and the expenses and charges of said sale and of the execution of this decree, the said plaintiff shall, if she may so choose, have the balance of said bid or bids credited on her debt herein and hereby decreed to her as above said until said debt is fully paid off, satisfied, and discharged, with all interest thereon, and if said plaintiff's said bid or bids exceed the sum and amount of her said
222 debt and all interest thereon and costs and charges and expenses above said, then she will pay so much of said balance so bid by her into this court to await the further order thereon of this court; and the said Hardin, as said commissioner as aforesaid, shall make report to this court at the next term thereof of how he has executed — performed the duties and trusts imposed upon him by this decree.

And it is further ordered by this court that Richard L. Hardin be, and he is, appointed receiver of this court, and he shall take charge of the crops, mules, and farming tools above said in said complaint

and exhibits thereto mentioned and above decreed to be sold and deliver the same to said commissioner to be sold under this decree, as required by law, and all other and further orders
223 and questions in this suit are in the meantime reserved.

CAROLINE S. T. HODGES
against
FLEMMING H. PRICE and ASA HODGES.

NOV. 1ST, 1876.

Richard L. Hardin, appointed by this court receiver in the above-entitled suit, this day came into court here and offered his bond as such receiver, with William D. Hardin as surety thereto, and the same being deemed sufficient by the court is approved and ordered to be filed in this cause, and the said receiver, upon taking the oath required by law, will proceed to execute the duties imposed upon him by his said appointment of receiver as aforesaid.

STATE OF ARKANSAS, *County of Crittenden:*

Chancery Record. April Term, 1877.

Be it remembered that on this 23d day of April, A. D. 1877,
224 the same being Monday and the day appointed by law for holding the regular term of the circuit court in chancery of Crittenden county—was present his honor L. L. Mack, judge of the second judicial district of Arkansas, and was also present and in due attendance John Swepston, clerk of said court, and Edward B. Lewis, sheriff of said county, by his deputy, W. F. Maddox, and said court being duly opened by proclamation of said sheriff—the following proceedings were had, to wit:

CAROLINE S. T. HODGES
against
FLEMMING H. PRICE and ASA HODGES.

On this day comes the plaintiff in this cause by attorney, and the report of Richard L. Hardin as receiver in this cause, heretofore filed, is read.

225 Be it remembered that at the above-named term of said court, and on the 24th day of April, it being a day of said term, amongst others, the following proceeding was had, viz:

C. S. T. HODGES *vs.* FLEMING H. PRICE *et al.*

On this day motion is made to dismiss suit. Filed and sustained.

Be it remembered that at the above-named term of said court and on the 25th day of April, it being a day of said term, among others, the following proceedings were had, to wit:

C. S. T. HODGES *against* FLEMING PRICE and ASA HODGES.

On this day the report of this cause is confirmed.

Be it remembered that at the above-named term of said court and on the 27th day of April, it being a day of said term, amongst
226 others, the following proceedings were had, to wit:

Decree on Report of Receiver and Commissioner.

CAROLINE S. T. HODGES *against* FLEMING H. PRICE.

This cause coming on to be heard upon the report of the receiver and commissioner, the said Richard L. Hardin, appointed by this court in this cause, and it appearing to the court here that said report has been duly filed in this court as required by law, and that the same, said report, was read and submitted for confirmation and approval of this court on the first day of this term, and the same was laid over, under the rules for objections and exceptions, for three days, and no objections or exceptions being filed or made thereto, said report is hereby in all things approved and confirmed by the court here; and it further appearing from said report that
227 the property ordered to be sold by said original decree by said commissioner was so sold for the sum of seventeen thousand two hundred and forty-one dollars and ten cents, which property so sold was purchased by the plaintiff, said Mrs. C. S. T. Hodges, for the sum of seventeen thousand two hundred and forty-one dollars and ten cents (17,241.10), who executed her bond for the same, so bid by her as above said, as required by law and by said original decree in this cause, which bonds are filed with said report; and it further appearing from said report that the expenses and the costs of the execution of said original decree by said receiver and commissioner, said Richard L. Hardin, is the sum of one hundred and seventy dollars, which sum for said expenses and costs
228 of the execution of said original decree has been paid, as by the receipt of said receiver and commissioner, said Richard L. Hardin, filed in this cause more fully appears; and it further appearing that the said Fleming H. Price, said defendant, has paid to said plaintiff, Mr. Hodges, on the promissory note of five thousand dollars, falling due on January 1st, 1877, which said note has so fallen due since the filing of the complaint in this cause, and is not included in the said sum- decreed to said plaintiff in said original decree, the sum of twenty-five hundred dollars, which last said sum of twenty-five hundred dollars is agreed by the said plaintiff and said defendant to be credited on said note last said as paid on November 1st, 1876, as more fully appears
229 by the receipt of said plaintiff to said defendant, and which is filed in this cause; and it further appearing that the balance of the sum due on said note last above said, after deducting said payment of said sum of twenty-five hundred dollars so paid on said note, as last above said, is the sum of four thousand four hundred and forty-seven dollars, principal, and interest up to this date; and it further appearing that the sum decreed to said plaintiff at the last term of this court with interest thereon at six per cent. per annum is the sum of twenty-one thousand six hundred and

seventy-two ($21,672) dollars up to this date; and it further appearing that the sum made on the sale of the property ordered to be sold under said original decree in this cause is the sum of
230 seventeen thousand and sixty-nine dollars ($17,069), principal, and interest up to this date, less the expenses and costs aforesaid:

It is therefore considered and adjudged by the court here that the money made on the sale of the property ordered to be sold under said original decree, after deducting the said costs and expenses of executing said original decree, shall be applied first to the payment and satisfaction of the balance of said note falling due on January 1st, 1877, and all interest thereon, and the balance of said sum so made by said sale of said property by said commissioner, and after the payment of said note and interest thereon, shall be applied in payment and satisfaction of said original decree; and the court finds that the balance due on said original decree
231 is the sum of nine thousand one hundred and seventy-three dollars ($9,173), for which said decree of nine thousand one hundred and seventy-three dollars ($9,173) it is ordered by the court here that execution issue as at law and for costs.

April 26, 1877.

Certificate of Record.

STATE OF ARKANSAS, *County of Crittenden:*

I, David Ferguson, clerk of the circuit court within and for said county, do hereby certify that the amended and foregoing is a true and complete transcript and copy of all the records in chancery case No. 461, C. S. T. Hodges against F. H. Price *et al.*, as appears from the papers in this cause and records of said chancery court as found of record in Book E, pages 316, 321, 334, 338, and 344, and
232 from the papers in said cause now on file in my office.

Witness my hand and official seal, at office, in Marion, this 24 day of November, A. D. 1882.

[L. S.] DAVID FERGUSON, *Clerk.*

Endorsed: No. 376. Equity. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* Deposition of Judge Peters. Filed December 14th, 1882. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

233 *Depositions of Mrs. Lizzie Barton & Wm. Hargus, Taken for Complainants, Formalities Waived.*

ANNA E. CAMERON
vs.
ASA HODGES *et al.* } Equity, 376.

Mrs. LIZZIE BARTON, being first duly sworn, says: I am the wife of C. T. Barton, and reside in Memphis, Tennessee, where I have resided with my husband for the past 5 years; I am a cousin to Mrs. Anna E. Cameron, and know slightly the defendant, Asa Hodges.

Q. 1st by Humes & Poston. Were you ever present on any occasion or interview when any conversation took place between any of the parties to this suit in reference to the affairs and property of F. H. Price, deceased? If yea, state when it occurred and where, who was present, and how you came to be present, and what was said, as near as you can remember.

234 Ans. Last summer; the date it occurred I have forgotten. I heard a conversation between Mrs. Cameron and Mr. Asa Hodges on Shelby street, Memphis, Tennessee; no one was present but Mr. Hodges, Mrs. Cameron, and myself. I remember one thing that purported to be the theme of the conversation, and that was that Mr. Hodges told Mrs. Cameron that his wife had offered a deed to the property to Mr. F. H. Price, but that he said he did not want to take it; that he was so dissipated that he would run through it in 12 months. I further remember that he said he had offered the property to Mr. Cameron and a lawyer, but he said that Mr. Cameron could not accept it because it was so incumbered with debt that he could not pay it out. This is all I remember about the interview and what was said.

235 Cross-examination waived.

WEATHERFORD & ESTES.

And further saith not.

MRS. LIZZIE BARTON.

Subscribed and sworn to before me December 19th, 1882.

J. S. GALLOWAY, *N. P.*

And WM. HARGUS, aged 41 years, being first duly sworn, on oath says:

Q. 1st. Where do you at present reside, and what acquaintance, if any, have you with the parties to this suit?

Ans. At Victoria, Mississippi; I knew Mr. & Mrs. Cameron; do not know the other complainants or defendant-, except Mr. Hodges, to whom I — been this a. m. introduced by Mr. Poston.

Q. 2. State what, if anything, you know of the business affairs or property of F. H. Price, deceased, late of Crittenden county, Arkansas, how you came to know about his affairs, and if you ever

236 visited that county in looking into his affairs. Please state when it was and what you ascertained in regard thereto, and from whom.

Ans. In November, 1880, about the 10th or 15th of the month, I was then stopping in the city and met Mrs. Cameron, and at her request I went over to Marion, Arkansas, to learn something of the property of Mr. Price and the condition of it, and the probable value of the crop on it. I think this was the first trip; the second trip I went a week later at the request of Humes and Poston. I had some conversation with a man who worked on the farm and some servants on the place as to the amount of cotton raised on the

place and the probable value of the crop; do not remember
237 any of the names of the parties except a woman whom I met on the boat, either going or coming, and her name was Coots or Couch, or some such name. The substance of the conversation with the hands was in regard to the crop, and the talk with the woman was somewhat on a different subject. The hands agreed as a general thing that they were about half done with gathering the crop (excepted to as hearsay), and had gathered about 200 bales of cotton, as I now remember it. This was the substance of what I learned from them. (Excepted to as hearsay and incompetent.) The conversation had with the woman was on another subject, and was in regard to the disposition of Price's property. She stated that she was a servant in the house (here the defence excepts to all
238 the hearsay of the servant as hearsay and incompetent), and I asked her what disposition Mr. Price made of his property after his death, if she knew. She stated that he had willed it to his sister and daughter, or sister and sisters, she did not seem to know which. I had some conversation with a Mr. Crittenden, a lawyer, but it had no bearing, and would probably be incompetent and out of place to detail here.

Q. 2. Did you or not ever have any interview with defendant Asa Hodges or his wife during either of these visits; if yea, what was said by either of them in reference to F. H. Price or his property?

Ans. I met neither of them on either occasion, and I went to residence of Col. Hodges in this city after my last visit to Ar-
239 kansas for the purpose of having an interview with Col. Hodges and his wife and found the Col. absent from home; had some conversation with Mrs. Hodges regarding the property. When I mentioned the business upon which I called Mrs. Hodges asked me if I was a lawyer. I told her I was not—simply a friend of Mrs. Cameron's. She said if I was a lawyer she would not be interviewed on the subject. After learning that I was not a lawyer she talked rather freely about it. I told her I called to see her and her husband about the property. I can't state exact words, but the substance of my inquiry and her reply. — said to her that Mrs. Cameron was anxious to have the property turned over, and wanted to know if she intended, and when, to turn over the property
240 to Mr. Price's heirs. She said that they intended at some future time, but not then. She said that — some indebtedness, 5,000.00, as I now remember it, in which she said Mr. Price and Mr. Hodges were equally interested, and said that Mr. Price had bought some mules—probably 4 head—which he owed for to some merchant in this city; said that they felt legally and morally bound to pay these debts, and therefore they intended to retain the property and pay them out. That was the substance of that. I asked her, in connection with that, if Price had a deed for that property, and she said not; that she and her husband had tendered him a deed twice, would say that year, and he had neglected or refused to take the deed, as he had implicit confidence in her and her
241 husband. She said that after the death of Mr. Price Mr. Hodges insisted upon giving up the property to heirs of

Price and not be incumbered with it. She objected, for the reasons aforesaid, to wit, the debts they would have to pay. I asked in regard to Price's papers. She stated that Col. Hodges had brought a bag of papers—I think that was the word she used—from Price's place, and that she kept them in her bed-room—regarded them as very valuable—and on the night before she had slept with this bag of papers under her head, as there had been an alarm of fire the night previous. She stated that it would require the proceeds of the plantation for two years to liquidate these debts. This is
242 the substance of the conversation, except as to some personal property, and she said, in reference to this, that his watch he, Price, had given to her, and this she intended keeping in her room, and he had given his watch-chain and horse to Mr. Cameron, his brother-in-law.

Q. 3. What, if anything, did she say in regard to the crop of cotton that was being raised that year on the Price place?

Ans. My recollection is not very definite about that, but the impression she made on me was that the net proceeds would be about 2,500.00 per year. I simply take it that she said there was 5,000.00 debt on it and that it would take 2 years to pay it, and I would not be very positive about her mentioning the value of the crop, but this is the impresssion that may have been made on my mind,
243 from the fact that she said it would take 2 crops to pay it out and named the debt at $5,000.00.

Q. 4. Did you examine the corn crop or stock on the place? If yea, please state its condition and amount.

Ans. I did not; did not visit the place.

Cross-examination waived.

WEATHERFORD & ESTES.

And further saith not.

W. HARGUS.

Subscribed and sworn to before me December 19, 1882.

J. S. GALLOWAY, *J. P.*

Endorsed: Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. v.* Asa Hodges *et al.* Equity, 376. Depositions of Lizzie B. Barton and William Hargus. Filed December 19, 1882. Bell W. Etheridge, cl'k; W. B. Weisiger, D. C.

244 In Circuit Court of United States for Western Division of Western District of Tennessee, at Memphis.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

To Messrs. Weatherford & Estes, atto's for def'ts:

Take notice that on Friday, the 15th day of December, 1882, at the office of the clerk of the circuit court, in the court-house, in the town of Sardis, Miss. (Panola Co.), we will take the deposition- of Anna E. Cameron and her husband, J. D. Cameron, William Har-

gus, and J. B. Booth and others, witnesses for complainants, to be read in evidence on the hearing of the above-entitled cause, when and where you may attend and cross-examine, if you so desire; examination to be begun and continued from day to day until completed.

245 HUMES & POSTON,
Attorneys for Complainants.

We accept service of the foregoing notice 8th day of December, 1882.

WEATHERFORD & ESTES,
Attorneys for Defendant Hodges.

In Circuit Court of the United States for the Western District of Tenn., at Memphis.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

Depositions of Anna E. Cameron — J. D. Cameron, witnesses for complainants, whose depositions it is agreed may be taken by consent at Sardis, Miss., all formalities of caption and certificate being waived and exceptions only for competency and relevancy being reserved.

HUMES & POSTON,
Sol's for Complainants.

——— ———,
Sol's for Defendants.

246 And ANNA E. CAMERON, one of the complainants, aged 40 years, being first duly sworn, on oath says:

Q. 1st by Humes & Poston. Where do you at present reside, and what relation, if any, are you to the parties, complainants and defendants?

Ans. Sardis, Miss.; I am one of the complainants, and J. D. Cameron is my husband; the balance of the complainants are brothers and sisters and the children of a deceased brother and his widow; I am the niece of the defendant, Asa Hodges, and am not related to the other defendants.

Q. 2 by same. Did you or not ever know one Fleming H. Price, late of Marion, Crittenden county, Arkansas; if yea, what relation were you to him, if any, and is he dead or alive; if dead, when and where did he die?

Ans. I knew him; he was my brother; he is dead; died Nov. 2, 1880, in Crittenden county, Arkansas.

247 Q. 3 by same. Did he die testate or intestate, and what children or issue of children, if any, did he leave surviving him; if no children, did he or not leave a wife; if no wife nor children or issue of children, did he or not leave either parent surviving him; if so, which one? And if both are dead and died before he died, state it; if neither survived him, please state what brothers or sisters or the

issue of brothers and sisters he left surviving him, and whether or not they are the parties complainants to this bill.

Ans. 3d. He died without issue, so far as I know. If he made a will I have never been in possession of it. He left no children or issue of children nor wife, never having married, nor mother nor father; his mother died in 1862 and his father in 1865. The
248 names of the complainants to the bill are all the heirs, brothers and sisters, and the widow and children of a deceased brother; the name of Eudora J. Morton should be Eudocia J. Morton; with this exception the brother and sisters and issue of a deceased brother are correctly set out in the bill.

Q. 4 by same. What kin was said Price to the defendant, Asa Hodges?

Ans. Nephew.

Q. 5 by same. State whether or not you were present at the death or burial of said F. H. Price.

Ans. I was not.

Q. 6 by same. Were you ever during his last illness or death notified to come to him; if yea, when did you get such notice and by what means, if any, were you notified?

Ans. I received a telegram about 11 o'clock a. m. of the day he died, he having died at 8 o'clock a. m., and I took the train at one o'clock p. m. for Memphis, taking a freight, so as to make
249 the connection with the train at Grand Junction, which got to Memphis at 8 o'clock p. m.

Q. 7th by same. How happens it, if you know, that you were not notified earlier, and what time was the telegram written, and what was the reason, if you know, you were not earlier dispatched? State the facts and from what source you derived them.

Ans. I got it from Mrs. Hodges and Mrs. Mary J. Phillips. (Here Asa Hodges, by counsel, excepts to all hearsay and any alleged conversation, admission, or transaction with Mrs. C. S. T. Hodges as incompetent.) We got to Memphis about 8 o'clock a. m. I asked Aunt Mary how my brother was, and she said, Child, your brother is dead. She told us that Aunt Cathe was looking for us, and we got back on the bus and went down to her house and got out
250 and knocked and rang the bell—the door bell—for ever so long, and as the bus had left us we had to walk back to the Park Hotel and got lodging for the night. After getting there I asked Aunt Mary for the particulars of my brother's death. She told me that Aunt Cattie had called them about 10 o'clock and said that she had a dispatch that had been sent over at 4 o'clock the day before, and that she had not sent it because she did not think it would do any good, but that she allowed she had better send it; this was about ten o'clock of the morning of his death, he having died at 8 o'clock. Next morning Aunt Cattie came down about 10 o'clock and said the reason that she did not send the dispatch was that she did not think you could get there and that I could not have
251 been of any service to him; anyway that all was done for him that could have been done.

Q. 8. How long after your brother's death was it that you got to Memphis?

Ans. He died at 8 a. m. and we got to Memphis at 8 p. m. of same day.

Q. 9. In speaking of Aunt Cattie and Aunt Mary to whom do you refer, and what kin are they to you and the defendant, Asa Hodges?

Ans. Mrs. C. S. T. Hodges and Mrs. Mary J. Phillips, the wife and sister of defendant, Asa Hodges, and my aunt and aunt-at-law.

Q. 10. Did you or not attend the funeral of your brother; if not, why not; and what steps did you take or preparations make to be present at his burial?

Ans. I did not. When I got there that night Aunt Mary, Mrs. Phillips, told me that Aunt Cattie told her if I got there that night to tell me to come to her house, that my Uncle Asa had sent
252 me word not to try to go over. I insisted that I should go and my husband said to me you had better take your uncle's advice, and my aunt answered or told me that the body would be over next morning. Next morning Mr. Cameron went down to the 8 o'clock boat to see if the body was there. He learned that no arrangements had been made, and he made the arrangements for a hearse and a minister. When he came back he found Mrs. Hodges there, and she said that the road was so bad that it was impossible for them to get over on that boat and that they would be over with the body on the 11 o'clock boat. She went down with Mr. Cameron and myself to the 11 o'clock boat, and still the body did not come over, and I then insisted on going over anyway, and she and
253 Mr. Cameron both insisted on my not going over, but to wait until I could hear. We three went to the Overton boat, Mrs. Hodges with us and Mr. J. F. Dowdy. Old Mr. Dowdy, of Memphis, was with us. I never met him before and was introduced to him by Mrs. Hodges. After the 2 o'clock boat came Mrs. Hodges seemed much concerned at the non-arrival of the corpse and said she would not remain. We remained on Front Row for the 4 o'clock boat, she having gone home, she telling us when the 4 o'clock boat came to come to her house and spend the night. We went down to the 4 o'clock boat, and as soon as the boat landed Mr. Hodges came up and introduced himself to me and said he did not know why the corpse had not arrived, as when the boat whistled it
254 was within 5 minutes' ride of the boat. That was about his language. He did not say he was with it.

Q. 11. What boat do you refer to?

—. The "Overton," the ferry between Memphis, Tenn., and Mound City, Arkansas.

Q. 12. Who was the Mr. Hardin you refer to?

Ans. Mr. Wm. Hardin.

Q. 13. When was your brother buried?

Ans. I did not know until Uncle Asa came home that night, and in a conversation with Aunt Cattie she said that Mr. Hodges had sent her word his body would certainly be brought over to Memphis and buried in a vault, and that she knew that there certainly was a cause for it. When Uncle Asa came over he said that he was

buried about 2 o'clock that day. Aunt Callie was the first one to ask about it, I being too much grieved to ask about it at the time.

255 Q. 14. When and where was the last interview you had with your brother, F. H. Price?

Ans. On the 22d and 23d day of September, 1880, at Memphis, Tenn.

Q. 15. What refreshes you as to this date?

Ans. My daughter married on that day, the morning of the 22d, and I had written my brother to meet me at Memphis on that day, and he and Uncle Asa met me at the depot. I accompanied my daughter that had just married to Memphis.

Q. 16. Did you or not on that occasion have any conversation with your brother relative to his property or affairs? If so, state what it was and how it was brought about, and what he said.

(Defendants' counsel objects to this question because it is absolutely illegal.)

Ans. We went to Mrs. Phillips' that day for dinner and from there to the Peabody Hotel, where my married daughter was stop-
256 ping. We were there about one hour, and going out on the street and turning into a picture store waiting for a street car and becoming interested we let the first car pass. Mr brother went on to say how much he was under obligations to us; that he came out of the army penniless, and that my husband and I had clothed and educated him, and said, I shall never feel satisfied until I can repay you for your kindness. He then made the statement that he was then out of debt; that his property had always been so enta-gled with Uncle Asa's matters that he could not give me any help, but that he was now free, and what he had was his own and what he had was his, and that he intended to do something handsome for me that winter. I said: Fleming, how much does your plantation yield? He
257 said if the boll or some other worm does not interfere I will make between 275 and 300 bales of cotton. I mean that the named the worm, but I have forgotton exactly what he designated it. I then told him I sometimes wished he had acted like Brother Willie—had put out from Uncle Asa's influence and set up for himself; gone clear off. He remarked that Willie had acted very unwisely; that he had worked very hard to pay for his place and got in a passion and went off; that he felt like he had worked too hard to tear off from Uncle Asa and leave his property on his hands; that *that* he had determined to stay there until doom's day, until he got his property in his own hands and his papers fixed up; that Brother Willie had tried repeatedly to bring Uncle Asa to
258 terms and to get his property and get his papers fixed up, and that he could never do it, and that he saw that they could never live in the same country and would have to separate. He says he put me off from year to year, but I was determined to stay with him to get my papers in my own hands. I then remarked, Brother Fleming, that I am afraid you will at last come out at the

little end of the horn after your work. He then said there is no danger of that; that I have all my papers in my own hands in black and white, and that there was no danger of his being cheated. Now, I am in a condition to help you and intend to take one of my brother's little children and educate and help her with the other children. I told her I had received a letter from her and
259 that she was in want and asked her when he expected or could help her. He said just as soon as I sell my first cotton. He then said "Sister," you think I have forgotton you, but when I remember how Mr. Cameron sold his carriage and horses to educate me I am determined to return the favor as soon as possible; that it hurt me to think how powerless he had been to return this kindness. He said that he and his brother Willie had determined years before when they got their place paid for to take charge of a sister I had been supporting and educate her and pay us back for the expenses we had incurred, but every year when we went to get our papers fixed up we were put off with promises, though we had doubly paid for our place—the work he had done on it and the money
260 he had paid for it.

Q. 17. Did you or not then understand from this interview that he owned and had the title—the papers—for the plantation he was then working and that the crop of that year belonged to him?

Objected to as leading.

Ans. I did, and he told me he had one of the finest plantations in Crittenden county, Ark., and he said, Sister, I wish you could go over and see it.

Q. 18. Did you or not about this time have any conversation with Mrs. Caroline S. T. Hodges, the wife of defendant, Asa Hodges, as to your brother's financial condition and his ownership of this place? State who was present, what was said, and how it was brought about.

(Defendants object to the competency of the witness to testify as to statements by or transactions with the deceased.)

261 Ans. We went from the picture store to Aunt Callie's and were invited into the dining-room. She took a seat near Brother Fleming, and said, Liffie, you have one of the handsomest and richest brothers in the whole country. She, Brother Fleming, and I were only present at this time. We talked on for some time, and after supper she asked me if I did not want to wait with her the arrival of her sister, who was coming that night. She began to talk to me about my brother, and said that he was one of the wealthiest young men in the country; that he had lived economically and had worked for what he had, and that he had one of the finest plantations in Crittenden Co., giving me a description of it, and said poor Willie might have been in the same condition, but that he got
262 mad and went off after working so hard. She then said that Flemmie was in a condition now to get married, and that she had a plan on hand, and I said, Aunt Callie, what is it? And she said, I have

a niece that is coming to visit me, whose husband has been dead either 3 or 6 weeks—I won't be positive which she said; that she wanted Flemmie to marry her; that he had good property and plenty to take care of a wife, and that she had her heart set on his marrying her, and wanted me to use my influence with him to affect this purpose. I said to her that I could not do this; that my brother must make the choice for himself. We talked on until very late at night. She remarked to me that night that she had given
263 my brother a fine house in Little Rock, and next morning we were in the front yard. I said to him: Fleming, Aunt Callie has set her heart upon your marrying a niece of hers; and he said, Yes, she has tried that before, but never succeeded; and I remarked to him, Please don't be entrapped.

Q. 19. Did you or not ever have a second interview with Mrs. Hodges about your brother and his property and effects; if so, who was present at this interview, and what was said and by whom, and when did it occur and under what circumstances?

(Defendants' counsel reserve the same exception as to the last Q. and answer.)

This question out to let the witness conclude her answer to the former question.

Ans. In further answer to the preceding question I said to my brother that Aunt Callie told me the night before that she
264 had given him a fine house and lot in Little Rock, and he said she gave him nothing but a pair of old pillow shams; that he had a lien on the house and lot in Little Rock; that he had worked and paid for all that he had.

Let the witness now answer Q. 19.

Ans. 19. The next interview I had with Mrs. C. S. T. Hodges was on the day of my brother's burial, Nov. 3d, 1880. *Ans. 19.* Mrs. Phillips was present; it was about 10 o'clock a. m. When she came in she began to talk about the business and said that my brother had made a will, but did not tell me its contents; that a negro man had come over and told her that he had died perfectly rational, and that he would have Uncle Asa write down everything for him. This is what she said the negro told her. She said that he had
265 fixed up his business and had gone so far as to get a small account from a store; that he did not want to die owing a dollar in the world; that this was what the negro Moses stated to her. This is all that she said that morning that I can remember distinctly; but the next morning, after Mr. Cameron and Mr. Hodges had gone to Arkansas, she talked to me very freely about the property. She then said that the Arnold tract belonged to my brother, and that he had willed it, giving 2 shares to me and the balance to his brothers and sisters and his brother's little boys. She then said that my brother had promised to give Uncle Asa 5,000.00 of that present crop of 1880 to pay a debt to the Arnold —, a matter I then knew nothing about. She said that she had

said to Fleming three times that year, "Flemmie, I want
266 you to take your deeds and take care of them—the deeds to the property." I then said to her that my brother said to me in Sept. last that he had his title in black and white, and she then remarked, "Did not your Uncle Asa tell you last night that Peters drew up the writing and that there was a deed to the property?" and told her that he did, and then said, Aunt Callie, I don't understand about that 5,000.00, as I understood my brother to say that he was out of debt, and that he only offered to give his Uncle Asa the 5,000.00 to help him out of debt for the love he had for him; but she said you must not speak of this out of the family, for your uncle will not get his discharge in bankruptcy until April, I think, al-
though I am not certain about the date, as I did not under-
267 stand what she meant until she explained it to me. There were two little children present playing with their picture books. She then said that if I would go home and not trouble Uncle Asa that he would see that the will was carried out to the letter.

Q. 20. Did you or not have any interview with defendant, Asa Hodges, and his wife when your husband was present; if so, when did this occur, and what was said by Hodges and his wife about your brother's property?

(Defendants except to any conversation with defendant Asa as incompetent and hearsay to bind his wife's property and any statements of the decedent for the records above given.)

—. I did; the night that my brother was buried, after Uncle
268 Asa came home—Mrs. Hodges, Mr. Cameron, Uncle Asa, and myself and a little negro child. He, Uncle Asa, talked very frequently about the property; said that the property was my brother's, and that he had willed it (but it was a verbal will), 2 shares to me and one share each to my sisters and one share to my brother's little children; that he willed his watch to Aunt Callie, Mrs. Hodges; that he had willed one pistol to Mr. Maddock and Mr. Hodges, and that he had given them to the parties. He then asked me if I had a watch. I told him I had not; that I had given mine to my maimed daughter, and he said he wanted me to have it; that I was the proper one to take it, and Aunt Callie objected. He asked me if I had a horse and any use for him. Mr. Cameron
remarked we had no use for him or place to keep him.
269 Uncle Asa said he did not want the *place*, as he did not want to see any one riding him. Aunt Callie said she wanted him, and he said she could not have him. I said I would take him and take care of him, which I did. The horse died in 17 days after we took him. Uncle Asa said at the time Aunt Callie would come all right and let me have the watch. Uncle Asa said my brother was out of debt, except Dr.'s bill and funeral expenses and a little ac. down at the store near the house; he thought about $25.00. He said Flemmie had plenty of stock to run the place, wagons, &c.; that Flemmie's mules were much better than his, because he took better care of them than he did. He then asked me if I was going to stop

off at Aunt Bettie's, Mrs. Elizabeth Townsend, sister of de-
270 fendant, Asa Hodges, who lives near Bray's station. I told him I would not; that I did not have time, and he said, If I was in you- place I would go on home and remain quietly; that he would fix up everything for us and turn over the property and papers to us; that he would manage the place, and could do it much better than any man we could employ for that purpose; that the negroes would not work for any one over there but him. In the same conversation he said, I do not want you to have anything to say to that man Cartwright, and I said, Who is he? and he says, He is the man that married Alice Townsend, a cousin of mine, as he is a man who has his mouth in everybody's business. He
271 also said, I don't want you to make known your business to your Aunt Mary Jane. She talks too much; and don't say anything to your brothers and sisters about it; and I said, I can't do this; that I must tell them the facts; and he said, Just tell them that I am winding up the matter, and, when I get through, will turn it over to you; that he left the business in my hands. Aunt Callie was present when Uncle Asa was talking, and confirmed what he said and would occasionally put in. For instance: Uncle Asa remarked that the deeds were all fixed up and my uncle had the deeds, and I then said, Under what obligations was my brother to give you five thousand dollars out of the year's crop, and he said, None in the world, except the love he had for me. He wanted to help me pay the debt.
272 I said to him, My brother said to me he was out of debt, and he said, Did your brother talk to you about his business, and I said, He certainly did; that he told me that he had his papers in black and white and Uncle Asa said, and so he did; that Peters drew up the papers and that she, Callie Hodges, had offered them to him twice that year, and Aunt Callie then remarked, "Yes, three times that year." This was the substance of what occurred that night, except that he said the property was a fortune to us; that it was valuable, and never intimated but that it was my brother's property. That night Mr. Cameron asked him to give him some writing showing that the property was ours; that something might happen. He, Uncle Asa, said he reckoned he had better, and that they
273 would go the next day and let him see it for himself; but I don't know. He and Mr. Cameron fix- this matter on the Sunday following the death of my brother. I had another interview with my aunt, Mrs. C. S. T. Hodges, in which she asked me what I was waiting for; at least she said, You need not wait for uncle, and I said, Why do you think I am waiting for him? She said, You need not worry your uncle any more about that property, but that if you will go home and let your uncle alone he will carry out that will to the letter; if you don't he will do nothing.

Ans. 21. Have you or not had another interview with your Uncle Asa after the death of his wife, and how did it come about; who was present and what was said?

(Same exception as above by defendant-.)

274 —. About the week after the death of his wife we received the letter herewith as Exhibit "A," notifying us that he would deliver the watch to us if we called for it. I got the letter and Tuesday I went to Memphis. The next morning I went with my cousin, Mrs. Lizzie Barton, to see my uncle; did not find him at home, but we went again and met him. I told him I had come for the watch and if it was convenient I would like to have it, and he gave it to me. I asked him what he had done with the property, and he said that last year was a bad crop year, anyway—the negroes would not work—and that he and his wife had about come to the conclusion before her death that they would turn the property over to us and save further trouble, but that she had learned that you
275 had gone to law, and that she got mad and would not do it. He then stated that, If you will not harrass and annoy me I may turn it over to you this year; that he had been harrassed by lawsuits until he was worn out. I then remarked that she (Mrs. Hodges) had told me and Mr. Hargus that she made a deed to the property to my brother, and that Peters had drawn it, and Uncle Asa then said that she did offer him the deed and that he refused to take it, telling her to hold it; that he did not want to be troubled with it; that he was very dissipated in his habits, and would run through the property in 12 months. He then said that if I did not trouble him that he would not only turn over my brother's property,
276 but when he made his will, after his wife's will was probated, that he would make me an equal heir of his estate, and that he then hoped to have his wife's will probated on the next Friday, but that if she lawed him he would spend the property in the litigation; that he would rather spend it that way than to let her have it. Mrs. Lizzie Barton was present and heard this conversation. I told him if he would give me the property next Christmas that we were willing to give up the three years' crop. I also told him that he said the two years' crop would pay it out. This was during the last interview, in July, when I told him that he had said that two crops would pay out the mortgage, and that I needed the property;
277 that I had a daughter to educate, and if I was ever to get it I *then* wanted it then, and that my sister-in-law wanted it for three little boys, and Uncle Asa said they were not embraced in the will. I said to him, You told him that they were, and he said, They were not, but I included them. This was the last interview I ever had with him.

Q. 22. Where were you living at date of your brother's death?

Ans. Holly Springs, Miss.

Q. 23. Did you or not ever before give testimony in any case?

Ans. Never in my life.

Reserving all and all manner of exception to the foregoing deposition for relevancy, competency, or of its hearsay character, to be disposed of on the hearing, the defendants' counsel decline to cross-examine the witness.

WEATHERFORD & ESTES,
For Defendants.

And further saith not.

278 ANNA E. CAMERON.

Sworn to and subscribed before me this the 15th day of Dec., 1882.

S. R. BLUM, *Clk*,
By W. W. SMITH, *D. C.*

MEMPHIS, *July* 21, 1882.

Mr. Cameron.

DEAR SIR: My wife died on the 11th inst. from paralisis. She gave me in her will all of her real and personal property. The watch of Fleming Price I always wanted you to have, and if you will be up here soon and will call I will give it to you. I was notified by Humes & Poston they were employed to bring suit for the Arnold Place, in Arkansas, last winter, and I have not heard of it since. If it is the wish of Leffy and her brothers and sisters to litigate with me they can have a full benefit of it, but I should
279 very much like to know if that is their intention still.

Yours, &c., A. HODGES.

Exhibit "A" to Mrs. Cameron's deposition.

And J. W. CAMERON, being next duly sworn, says:

Q. 1st by Humes & Poston. State your age and occupation and present residence and where you resided and at what you were engaged in the fall and winter of 1880.

Ans. I am 48 years of age and a Methodist preacher; residence, at Sardis, Miss., and was in the fall and winter of 1880 in the same calling; was pastor of the Methodist Episcopal Church South at Holly Springs, Miss.

Q. 2 by same. How long have you been engaged as a preacher of the gospel, and do you or not belong to the itinerancy of the Methodist Episcopal Church South?

280 Ans. I have just closed my 26th year, and I do belong to the itinerancy of the Methodist E. Church South.

Q. 3 by same. What relationship exists, if any, between you and any of the parties to this suit, and what connexion have you with the same.

Ans. I am one of the complainants and am the husband of Anna E. Cameron, and the defendant, Asa Hodges, is the uncle of my wife; the balance of the complainants are brothers and sisters of my wife without children.

Q. — by same. Did you or not ever know one Fleming H. Price, who formerly lived at Marion, Crittenden county, Arkansas; if yea, for what length of time and how intimately? Is he dead or alive; if dead, when and where did he die, and did he or not die testate or intestate?

Ans. I did know him since my marriage, in 1858. He was a member of my family for 18 or 20 months. He is dead.
281 He died Nov. 2, 1880. He died intestate, so far as I know.

Q. 5 by same. Had said F. H. Price ever married, and did he leave any children or issue of children or parent or brother or sister or the issue of brothers and sisters surviving him? If yea, state how the fact is and the name of such as survived him.

Ans. He had never married and left no children nor parent surviving him. The complainants are his brother and sisters, except the four last, who are the widow and children of a deceased brother, Willie Price.

Q. 6 by same. What relationship existed between defendant, Asa Hodges, and said F. H. Price, dec'd, if any?

Ans. He was a nephew of Asa Hodges.

Q. 7 by same. Were you present at the death bed or burial of said F. H. Price? If yea, state it; if not, and you made any efforts to get there and failed, state it; and state all the facts—what
282 notice, if any, did you get of his sickness or death, and how long before his death did you get it, and what was the notice; state all the facts.

Ans. I was not present at either his death or burial. Mrs. Cameron received a telegram from Asa Hodges about 11 o'clock a. m. on Nov. 2d, 1880, stating her brother was very ill and wanted to see her. Mrs. C. and I, as soon as we could get ready, took a freight train at Holly Springs, Miss., and got to Memphis at 8 o'clock at night. When we reached the Park Hotel, which was kept by Mrs. Phillips, Mrs. Cameron asked how her brother was, and she said he is dead; that he had died that a. m. at 8 o'clock. She stated that Mrs. Caroline Hodges expected us at her house that night, and we took the 'bus, which had not yet left the door, and went to the house, and, after making considerable efforts to get admittance and
283 failing, we walked back to the hotel. I then learned, but I can't state whether from Mrs. Phillips or Mrs. Hodges, that the dispatch had been sent over the evening before, and I learned from Mrs. Phillips that they were expecting the corpse over next morning, and I enquired if any arrangement had been made for a grave, hearse, and a minister, and I don't remember Mrs. Phillips' answer, but the next morning Mrs. Hodges told me none had been made; that the arrangement was to put him away in a vault for the present, and I learned from Mrs. Phillips that we would have to procure a permit to bring over the remains, and I went and procured it and gave it to Capt. Fogleman, of the ferry-boat.

Q. 8. Were you or not present at the burial; if not, why not?

Ans. I was not. I was informed that the corpse would be over on the first trip of the boat and went there 4 times, every trip of
284 the boat, but it did not come.

Q. 9. Do you know what property said Price left? If yea, state it and from — sources you get your information.

Ans. I learned from Judge Hodges after he came in that night that he owned a plantation of about 600 acres, with horses and stock enough to run it—a saddle horse and a gold watch.

Q. 10. What night was it that you refer to and how came he to speak of the property; what land did he refer to and who was present?

Ans. It was on the night of the 3d of Nov., 1880. He referred to his having willed the property to his sister and brother's children; that he gave his sister, Mrs. Cameron, two shares and the balance to his brothers and sisters and the children of a deceased brother.

He spoke of the value of the land; that it was a fortune to
285 us; that each acre was worth a $50 U. S. bond. Judge Hodges and his wife, Mrs. C. S. T. Hodges, myself and wife were present. He spoke of having offered the deed twice to Fleming that year, and his wife said three times, and he had declined for reasons that I did not get or understand. He stated that there was a mortgage on the property to secure 15,000.00 due by Judge Hodges; that Price had paid 5,000.00 out of the preceding crop, and that the negroes said the present crop was better than that of the year before. I then remarked that the presumption, then, is that this year's crop and another will pay off that mortgage, and he said that as soon as that property was paid off he would make us a clear title to the property, and to show that he meant to do what he said he would enter into a written obligation to that effect.

286 Mrs. Cameron asked him under what obligation her brother was to pay off that mortgage. He said none whatever, but had consented to do it for the pure love he had for him. He then spoke of Fleming's kindness to him and that he was indebted to him for every — that he, Hodges, owned. Mrs. Hodges was present, consenting to what he said, entering into the conversation from time to time. He also stated that he had willed his watch to Mrs. Hodges, but that he thought Mrs. Cameron had the better right to it. I could not state whether Mr. Hodges said it was a verbal or written will; don't remember how that was. Mrs. Hodges remarked with considerable feeling that she wanted his horse, but Judge Hodges said no; that she had no use for him; that he did not want him on the place. Mrs. Cameron then said she would take the horse and did so.

287 Q. 11. Did you go over to Arkansas the next day; if so, who was present and what — your object in going there?

Ans. I did, at Judge Hodges' suggestion, he accompanying me to see the place and the stock upon it. We rode rapidly through the bottom to the place and staid only a few moments, as a cloud coming up we rode back.

Q. 12. What place did he show and what did he say about it?

Ans. He showed me the Arnold place, and it was in passing that place that he remarked that he would rather have one acre of it than a U. S. bond. He also showed me some stock, one or two horses that belonged to the place, and called my attention to the gin-house; that was in bad state of repair. We went back that night to Mr. Hodges' place, and I told Mr. Hodges that I would like to talk to Jim-
288 mie Hodges, and he called Jimmie into his room, and I asked him some questions, but got no satisfaction out of him—questions as to Price's death, &c.

Q. 13. In that interview had with Hodges and his wife and in your presence and that of your wife did or not said Hodges and wife admit that the Arnold land belonged to Price, or did they des-

ignate any particular land for him? Was it designated or referred to by them?

Ans. It was the land upon which Price died. I could not say they designated the same by the Arnold tract, but they said it was the place he died on and contained about 600 acres.

Q. 14. Can you be mistaken as to this conversation, and particularly as to the facts detailed in reference to the trust deed thereon and Price's agreement to pay it?

289 Ans. I would say I could not, sir. It never entered into my mind once that it was not Price's property.

Q. 15. Did you ever make any investigation into the papers of F. H. Price; if so, where, who furnished you the papers, and what did you see and when was it that they were examined by you?

Ans. After the interview with James Hodges, after supper on the night of the 4th day of November, 1880, after we had visited the Arnold place that afternoon, I asked Judge Hodges to let me see the papers of F. H. Price, and he told James to get a little black valise. I found the valise unlocked and the papers utterly worthless. I don't remember, except some ac. sales of cotton lying around loose—I don't remember seeing other papers in there.

Q. 16. Did you see any little papers—will or other valuable papers—there?

290 Ans. I did not.

Q. 17. Were any papers shown you, or a paper or cloth bag?

Ans. No, sir.

Q. 18. In any of the conversation- with defendant Hodges or his wife was anything said of F. H. Price's indebtedness; if so, what was it?

Ans. On the night of the 3d of Nov., at the house of Judge Hodges, in Memphis, Mrs. Hodges asked the Judge if Price owed anything; he said very little; he owed a small account at a little store near there to a Mr. Murray, I think, and his Dr.'s and funeral bill would cover his indebtedness.

It is agreed that defendants' counsel excepted at the time to the testimony of the witness because of his marital relation to defendant and because of the statement of transactions with and conversation with the deceased, and for the further reason that the admis-

291 sions of defendant Hodges made at that time and since would not bind the decedent and because of the incompetent, irrelevant, and hearsay character of the testimony, to be disposed of at the hearsay, and defendant, by counsel, waives cross-examination.

WEATHERFORD & ESTES, *For Def't.*

And further saith not.

J. D. CAMERON.

Sworn to and subscribed before me this Dec. 15, 1882.

[L. S.] S. R. BLUM, *Clk.*

Endorsed: Equity No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *v.* Asa Hodges.

Depositions of Anna E. and J. D. Cameron for complainants. Filed Dec. 19, 1882. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

292 Rev. J. D. Cameron says that, in conversation with Hodges, he, Hodges, stated that the plantation belonged to Fleming Price, but that Price, in order to accommodate him, had executed or allowed to be executed the mortgage for 15,000.00; that Price had paid 5,000.00 on the debt out of the crop of 1879, and that he thought the crop of the next two years would pay off the balance, and he also stated that if Mrs. Cameron would allow him to retain possession of the property until the debt was paid he would enter into a written obligation to deliver the place in its then condition when that was done; that not knowing how the facts were in regard to said mortgage and having no means of information, purely and simply to avoid the expense, trouble, and delay of a lawsuit, and in a spirit of compromise, they (the Camerons) agreed to accept his statement in regard
293 to the mortgage upon the idea and believing that the balance would be paid out of the crops of the next two years, and agreed to accept Hodges' proposition and allow him to remain in possession upon the express condition that he give the proposed written obligation. This letter, dated Nov. 4, 1880, was written to convey their willingness to accept the proposition and to get from him the obligation. It was written in a spirit of compromise, accepting a proposition already made by Hodges which he failed to carry out, and did not and was not intended to acknowledge the truth of his statements or his right to the property.

Nov. 15, '83. F. P. P.

We agree that, upon retaking his deposition, Rev. J. D. Cameron, one of the complainants herein, will testify as above. We ex-
294 cept to it as incompetent and irrelevant, but waive cross-examination and all matters of form.

Memphis, January 30th, 1884.

WEATHERFORD & ESTES,
For Hodges.

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* 2d deposition of J. D. Cameron. Filed January 30th, 1884. Bell W. Etheridge, clerk; W. B. Weisiger, D. C.

295 In the Circuit Court of the United States for the Western District of Tennessee, at Memphis.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

Interrogatories to be propounded to Jas. T. Fantt, Lewis Scruggs, Jno. W. E. Watson, Addison Craft, and Gen'l W. S. Featherstone, witnesses for complainants, whose depositions may be taken and sworn to before any officer authorized to admininister an oath; all

formalities of caption and certificate waived, and only exception for competency and relevancy reserved.

HUMES & POSTON, *for Compl'ts.*
WEATHERFORD & ESTES, *for Def'ts.*

Interrogatory 1st by complainants' counsel. State your age and present residence and where you have resided and at what engaged for the past ten years.

Interrogatory 2d by same. Are you or not acquainted
296 with the complainants, the Rev. J. D. Cameron and his wife, Anna E. Cameron, formerly of Holly Springs, Miss., now of Sardis, Miss., and also with one Wm. Hargus, of Victoria, Miss.; if yea, for what length of time have you known them and each of them and how intimately?

Interrogatory by same. Do you or not know the general character of said above-named parties amongst their friends and acquaintances for honesty and veracity; if yea, state it, and is such character good or bad?

Interrogatory 4th by same. From such general character would you or not believe them on oath giving testimony in a court of justice?

HUMES & POSTON,
Sol's for Compl'ts.

Cross-examination waived.
Exception reserved to the admissibility of the evidence.

WEATHERFORD & ESTES,
For Def't Hodges.

297 ANNA E. CAMERON *et al. v.* ASA HODGES *et al.*

Answer of W. S. Featherstone to interrogatories propounded to him in the above case.

Ans. to 1st. I have resided in Holly Springs for the past ten years and been engaged in the practice of law.

Ans. to 2d. I am; I have been acquainted with them for several years, but not very intimately.

Ans. to 3d. I think I do know their general character and it is good.

Ans. to 4th. I would.

W. S. FEATHERSTONE.

Sworn to and subscribed before me this 29 Dec., '82.
GEO. C. MYERS, *Clerk.*

ANNA E. CAMERON *et al. v.* ASA HODGES *et al.*

Answer of Addison Craft to interrogatories propounded in above cause.

298 Ans. to 1st int. I am 47 years of age and have resided at Holly Springs, Mississippi, for more than 10 years last past; am a real estate and insurance agent.

Ans. to 2d int. I was intimately acquainted with Rev. J. D. Cameron for about six years prior to his removal to Sardis, and had slight acquaintance with Mrs. Anna Cameron, his wife, during the same length of time. I have known Capt. Wm. Hargus for several years and without having any direct, social, or business transactions with him, except in having served with him for ten years on the board of aldermen for the city of Holly Springs.

Ans. to 3d int. I know that Rev. J. D. Cameron was generally esteemed as a minister of ability, faithful and laborious in his field of labor, whose purity of life was unquestioned and whose word was as good as his bond. I know that Mrs. Cameron, his
299 wife, was notoriously devoted to her church and her family and was regarded as a shining light as a Christian matron. I know that Capt. Wm. Hargus stood well as an industrious, active citizen of the town, whose integrity I never heard called in question.

Ans. to 4th int. I should certainly believe any statement made by above parties under oath, speaking both from my own knowledge and from their general reputation in this community.

ADDISON CRAFT.

Sworn to and subscribed before me this 30th Dec., 1882.

GEO. C. MYERS, *Clerk.*

In the Circuit Court of United States for the Western District of Tennessee.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

Answer of L. S. Scruggs to interrogatories propounded to him.

Ans. 1st. I am forty-eight; reside at Holly Springs, Miss.,
300 and have lived here for the past ten years, and have been engaged in merchandising.

Ans. 2d. I am acquainted with all the parties named in the interrogatory. I have known Rev. J. D. Cameron and wife, Anna E. Cameron, for the past seven or eight years. I have known Wm. Hargus for fifteen years. I was closely and intimately associated with Rev. J. D. Cameron for four or five years of the time mentioned, and was also reasonably intimate with Mrs. Anna E. Cameron, his wife, for the same time; for bal. of time mentioned I was in such general association with Rev. J. D. Cameron and his wife, Mrs. Anna E. Cameron, as good friends are usually found to associate. During the time of my acquaintance with Wm. Hargus I have been ordinarily intimate with him.

Ans. 3d. I do know the general character of Rev. J. D.
301 Cameron and wife, Anna E. Cameron, and Wm. Hargus amongst their friends and acquaintances for honesty and veracity. I know the Rev. J. D. Cameron and wife, Anna E. Cameron, to be persons of unexceptional character for honesty and veracity. I know Wm. Hargus to be a man of high character for purity and veracity.

Ans. 4. I certainly would.

L. S. SCRUGGS.

Sworn to and subscribed before me this 25th day of Dec., 1882.
GEO. C. MYERS, *Cl'k.*

ANNA E. CAMERON *et al. v.* ASA HODGES *et al.*

Answers of Jas. T. Fant to interrogatories propounded in above cause.

Answer to 1st interrogatory. I am 44 years of age; reside at Holly Springs, Miss.; have resided there for the past ten years, and
302 have been engaged in the practice of law during the whole of that time.

Answer to 2d interrogatory. Yes; I have known the Rev. J. D. Cameron and his wife for several years—perhaps eight or ten—and I have known Capt. Wm. Hargus for a long time—say 12 or 15 years—perhaps longer. I lived here in the same town with them for several years. Mr. Cameron was the pastor of my church, and my relations with him, I may say, were intimate. With Capt. Hargus I was not intimately associated, but had various business transactions with him, and our intercourse was such as acquaintances and gentlemen living in the same community would naturally have with each other.

Answer to 3d interrogatory. Yes; I know the general character of Capt. Hargus and Mr. and Mrs. Cameron for honesty and
303 veracity amongst their friends and acquaintances in this community; it is good, indeed; I might add, remarkably good.

Answer to 4th interrogatory. From my knowledge of their general character I would unhesitatingly believe them on oath giving testimony in a court of justice or anywhere else.

JAS. T. FANT.

Sworn to and subscribed before me this 29 Dec., 1882.
GEO. C. MYERS, *Clerk.*

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* Depositions of W. S. Featherstone, Addison Craft, L. S. Scruggs, and James T. Fantt as to character. Filed January 4th, 1883. Bell W. Etheridge, clerk; W. B. Weisiger, D. C.

304 *Deposition of Capt. G. A. Fogleman Taken by Consent.*

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

I am captain of the ferry steamer John Overton, from Memphis to Mound City, and was in the year 1880. I knew Fleming H. Price and remember when he died. I remember taking the coffin over, and heard at the time that it was taken back because it was too short. In the evening of the day when the coffin was taken over for him I sent word to defendant Hodges that the corpse would not be allowed to be brought over because I had no permit for the purpose, none having been furnished me.

Cross-examination by HUMES & POSTON:

I don't remember seeing either Mrs. C. S. T. Hodges, Mrs. Mary Phillips, J. F. Dowdy, Dr. Cameron and his wife, or Wm.
305 Hardin on the arrival of the boat during the trip of the 3d of November, 1880. If so, I don't remember them; don't remember their having made enquiries of me as to whether the body of F. H. Price was being brought over, and don't remember their waiting at the boat. I don't know Cameron or his wife either. I may have seen Dowdy there one trip of the boat, but of this I won't be positive. I don't know Dr. Cameron, and I am positive nobody ever gave me a permit to bring over the body of F. H. Price. In the fall of 1880 I had Johnny Barton delivering cotton, and if he ever had such a permit he never gave it to me, and I never heard of it.

G. A. FOGLEMAN.

Oath, &c., waived.

HUMES & POSTON.

Endorsed: No. 376. Eq. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. v.* Asa Hodges *et al.* Deposition of G. A. Fogleman. Filed Jan'y 8th, 1883. Bell W. Etheridge, clerk; W. B. Weisiger, D. C.

306 In the Circuit Court of the United States, District of Tennessee. In Equity.

ANNA E. CAMERON & Others, Plaintiffs,
vs.
ASA HODGES & Others, Defendants.

To Anna E. Cameron & others, plaintiffs in the above-entitled cause:

You are hereby notified that the depositions of witnesses to be read in evidence in the above-entitled cause on the part of the defendant, Asa Hodges, will be taken at the office of Robert F. Crittenden, in Marion, in Crittenden county, Arkansaw, on the *the* 30th day of November, 1882, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, and that the taking of said depositions, if not completed on that day, will be continued from day to day at the same place & between the same hours until completed.

Nov. 27, 1882.

ASA HODGES.

307 I delivered to King Poston, of Poston & Poston, attorney-in the above-entitled cause, a copy of the above notice the 27 day of November, 1882, at 2 p. m.

C. H. TAYLOR.

Sworn to & subscribed before me this Nov. 30, 1882.

J. M. COLEMAN,
Commissioner for Arkansas.

U. S. Court, Memphis.

CAMERON *et al. v.* ASA HODGES *et al.*

We agree to the deposition- taken- at office of R. F. Crittenden, Esqr., Ark., before him as com'r in this cause, on *on* Thursday, Nov. 30, 1882, to be used in this cause.

HUMES & POSTON, *for Compl.*
WEATHERFORD & ESTES, *for Def'ts.*

This is continued to next Thursday week, Nov. 29th, 1882.

HUMES & POSTON.

308 Poston & Poston, attorneys-at-law, No. 36 Madison street.

MEMPHIS, TENN., —— ——, 188–.

CAMERON *et al. vs.* ASA HODGES *et al.*

We agree that R. F. Crittenden, Esq., shall act as special commissioner in this case to take the depositions of witnesses who may be brought before him at his office at Marion, Ark., on 3 days' notice being given to the undersigned attorneys for the respective parties.

WEATHERFORD & ESTES,
For Asa Hodges.
HUMES & POSTON, *for Compl'ts.*

309 The deposition- of Willie Campbell, Cook Knox, Perry Arnold, and Peter G. Dougherty, taken before me, the undersigned special commissioner, at my office in the town of Marion, county of Crittenden and State of Arkansas, this the 7th day of December, 1882, in pursuance to the agreement hereto attached, said depositions to be read in evidence on behalf of the defendants in a certain cause now pending by transfer in the United States circuit court for the western district of Tennessee, at Memphis, wherein Anna E. Cameron *et als.* are plaintiffs and Asa Hodges *et als.* are defendants.

R. F. CRITTENDEN,
Special Commissioner.

WILLIE CAMPBELL, a witness, being of lawful age, was then and there to *be* me produced by the defendants, & after being duly sworn according to law, on his oath says:

310 My name is Willie Campbell; I am 51 years old; I live in Crittenden Co., Arkansas, now, and have for 20 years last past; I am a farmer; I know Asa Hodges, one of defendants; I knew Fleming H. Price, on- of the defendants, in his lifetime, and knew him 14 years before his death; I also knew Caroline Hodges (wife of Asa) in her lifetime; she was my mistress and owned me; I also know that this suit is

about the "Arnold place," in "Crittenden county," Arkansaw. Fleming H. Price is dead; he died on the "Arnold place," in the fall of 1880; I saw him several times during his last sickness, and passed through the room when he was dying; I had a conversation with Fleming Price about 4 months before he died, at my house, as to the ownership of the "Arnold place," in which he said for me to hurry up, as he wanted some cotton to pay up a ration bill of his aunt Caroline, and the week he was taken sick the waggon came after the cotton; he told me in the spring of the year, at his death, that
311 — wanted me to plow the ground in a certain — so that he could make a good crop that year for his aunt Callie; he said nothing as to the ownership of the land. He (Price) never told me at any time that he was managing for himself, but in the spring of the year of his death said he was managing the place for his aunt Caroline. The cotton of the crop 1880 was marked in Caroline Hodges' name. Mr. Price, during his last sickness, was very kindly attended, & was waited on by Drs. Carington and Whilsett. I am a colored man, can neither read nor write, & have no interest in this suit. I helped burry Mr. Price; he was decently and nicely burried, for the reason aforesaid; he was burried on the Home place of Judge Hodges, because the steamer Overton would not, as I heard, take the corpse to Memphis. Asa Hodges was present at the burial.

X examination:

312 Mrs. Cameron (sister of Price) nor any other white lady was present at the burrial. Price died about 9 o'clock a. m. and was burried about 3 o'clock p. m. next day. He died on the "Arnold place;" I then and now lived on said place. Perry Arnold, Mary Cole, Coote Knox, & Julia Chapline (colored), & Mr. Cartwright & the doctors (white) attended him (Price) during his illness. Asa Hodges came there the night before he died. Jim Hodges was living on the Judge's home place at the time. All of the cotton raised on the place that year was shipped in the name of Caroline Hodges. I worked on the shares; my part of the crop was shipped in her name. I raised eight (8) bales. All of the place was in cultivation, but can't say how much cotton was raised; it was a good average crop of cotton and corn. I don't know that Mr. Price had anything on the place save his riding horse. He con-
313 trolled two (2) 2-horse waggons, one of which was iron-axle. There were 12 or 13 mules on the place, & a crib 12 x 12 had been filled with corn & some right smart chance put in another crib when Price died. Mr. Rufus Steiner, agent & manager of Judge Hodges, took charge of the cotton, corn, mules, &c., on the place after Price's death. There was about 50 acres of land in cultivation that year in corn.

Re-examination:

Mr. Price only claimed his riding horse; he said that the mules, stocks, and crops on the place belonged to his aunt Caroline. He

did not claim anything on the place but his horse. This conversation originated by my telling Price that I wanted to get some of that big fact off his horse in the plow. He said I could not plow his horse, but could any of the mules on the place, & that if the one I I had gave out come down to the house & he would give me another.

This was how it happened and all he said about it. The
314 conversation about the ownership of the land came up by Price telling me that he wanted me to hurry up with my cotton, as he had to settle up some ration bills for his aunt Caroline & myself. I never heard Price claim the place.

Further this deponent saith not.

WILLIS x CAMPBELL.

Attendance claimed, 1 day, 5 miles.

R. F. CRITTENDEN,
Special Commissioner.

COOTE KNOX, another witness of lawful age, was then and there to me also produced and, after being sworn as by law provided, on *his* oath said:

My name is Coote Knox; I don't know how old I am, but have grown children; I now and have lived in Crittenden county, Arkansas, since 1865; I am a housekeeper of the parties to this suit. I only know Asa Hodges & Anna E. Cameron. I knew Fleming Price in his lifetime & had known him since I have been in
315 the bottom. I also knew Caroline Hodges in her lifetime intimately; lived in the house & was raised with her. I waited upon Fleming Price in his last sickness; was present when he died, & had *had* hold of his arm. He was sick about 10 days; can't say exactly how long, but it was over a week. There was a black satchel or valise hanging on the wall. Mr. Price told me to bring it to him, saying that he expected his aunt & sister, & did not want them to see some pictures he had in it. I did so, & he took out some lewd & vulgar pictures & they were then burned. He then said that he wanted us to get up all his papers & books, put them in his trunk, and give his uncle the key. This was all that occurred in reference to the black satchel. Mr. Price was very kindly waited on & nursed; Judge Hodges was frequently there; he was neatly dressed;
316 I helped myself. There was some delay in the burial only by reason of a mistake as to coffin; everything was as nice as could well be. I attended the burial, which was at the Judge's Home place because of the d-ay aforesaid & that the boat would not take the corpse to Memphis. Mr. Price was struck with a hammer on the head at the Judge's gin-house about a week before he died; he was badly hurt, though he kept going; they say he died with pneumonia.

X examination:

Perry Arnold, Julia Chapline, Mr. Maddox, Jim Hodges, & myself, with the doctors, waited on Mr. Price during his last sickness,

who, just before his death, was looking for his sister, Mrs. Cameron, but if she came over at all I did not see her; don't know whether his sister was in Memphis while he was a corpse over here or not.

317 Jim Hodges & Mr. Maddox were present in attendance all of the time. I did not see Price burn anything but the pictures. I did not hear Price tell the gentlemen present & waiting on him to get up all his valuable papers & put them in that satchel & to give them to no one but his sister, nor do I remember having had a conversation with a gentleman on the Overton as to Mr. Price's sickness, property, &c., soon after his (Price's) death. Upon being refreshed I do now remember to have had a conversation with a gentleman (whose name I did not then & do not now know) at some place, in which I said that Mr. Price, on the day of his death, said that he wanted his brother-in-law to have his watch, and when his debts were paid he also wanted his sister to have the balance of his property. This conversation was started by the gentleman asking me what I knew of Fleming Price's sickness, death, & disposition of his property.

Further, deponent said not.

her
COOTE x KNOX.
mark.

318 Attendance claimed, 1 day, 2 miles.

R. F. CRITTENDEN,
Special Commissioner.

PERRY ARNOLD, third witness for the defendants and of lawful age also, then & there to me produced &, after being by me duly sworn, on his oath, says:

My name is Perry Arnold; I am 25 years old; a farmer; live in Crittenden county, Arkansas, now, & for 12 years last past have lived on the "Arnold place." I knew Asa Hodges, one of the defendants. I knew Fleming Price in his lifetime; he is dead. I was his body servant. I also knew Caroline Hodges in her lifetime. I have known the Arnold place since the judge bought it & me. I know that this suit is about that place. I was present when Caroline Hodges bought the place in 1877. Mr. Price was present at the sale and assisted in the conduct of it. I never had any conversation with Price as to the ownership of the place, except that

319 he told me it was his Aunt Caroline's place & that he was only managing it for her. He did not tell me what he was getting or had hired him for, but only said he was bossing the place for his Aunt Caroline. He told me these things the year before he died. I was living on the "Arnold place" with him at the time & so continued until his death. I never heard him (Price) claim any property in the place, except his riding horse. I waited on him constantly when he was sick. He told me that he was struck with a hammer at the judge's gin-house, & that Bill Robertson struck him. He took down after being struck with the hammer, which was about a week before he died, & never got up any more. I don't

remember anything about a black satchel further than to know it was in his room. I was present at his death and burial. He was kindly nursed & decently burried; there was some delay in
320 the burial by reason of a mistake in the coffin; his corpse was not taken to Memphis because the city would not allow the body to be brought there; when he died his sister was in Memphis, & there was some talk of telegraphing her; she was, however, sent for. He wanted to be burried in Memphis, & asked his uncle to see that he was carried there for burial, which was not done for the reason aforesaid. I am a colored man. I cannot read nor write & I have no interest in this suit.

X examination:

I heard nothing said of the satchel or valise or the burning of pictures, as I now remember. Mr. Price was keeping house on the "Arnold place" at the time of his death, but with the Judge's furniture. Mr. Price told me he was only hired on the place, & that the Judge furnished him, & this he told me the year before he died. He said he wanted his aunt Caroline to have his watch; his
321 brother-in-law to have his horse, bridle, and sadle, & his younger sister to have the balance of his property; what that was I do not know, as he did not state. There was a good crop of cotton & corn raised on the place that year, at least 600 bushels to his (Price's) part. The crop last year was not good; this year they are very good. I can't say how much cotton was raised on the place any one year, nor do I know to whom it was shipped.

Further deponent said not.

his
PERRY x ARNOLD.
mark.

Attendance claimed, 1 day, 5 miles.

R. F. CRITTENDEN,
Special Commissioner.

PETER G. DOUGHERTY, 4th witness for the defendants, of lawful age, was also produced &, after being duly sworn according to law, says:

My name is Peter G. Dougherty. I am over 21 years of age; am a farmer now, and for 12 years last past lived in Crittenden
322 county, Arkansas. I have no interest in this suit. I know Asa Hodges, one of the defendants. I knew Fleming Price before he died; we were intimate—second cousins. I had known him 10 years before his death. I lived, part of the time 2 or 3 miles from him & 8 miles part of the time. About 1878 or 1879 I had a conversation with Fleming Price, in which he told me that he was managing the "Arnold place," in Crittenden county, Arkansas, for his aunt Caroline, & had no interest in it. I had another conversation with him in 1879 or 1880 about going to Texas, in which he said that if he could wind up his business here he would go with me.

not remember that after that the subject was ever mentioned between us. The conversation that I detailed in my examination-in-chief had at the gin-house occurred after this. That was the last time (the gin-house) that I ever saw Mr. Price alive. I was present when Mr. Cameron, one of the plaintiffs in this cause, came out to see Asa Hodges at his wife's home plantation, in Crittenden county, Arkansas. About the day after Mr. Price was burried Judge Asa Hodges brought Mr. Cameron into my room and introduced him to me. They, Hodges & Cameron, sat down in my presence,
329 & I understood from what they said that Cameron had come out to inquire about Mrs. Price's property in Arkansas. Hodges told him that Price had no property that he knew of except a horse which he had given him, his watch & chain, & his wearing apparel. Cameron then asked Hodges if Price did not have some title to the "Arnold place." Hodges told him no, or none in the world; that the place belonged to his wife, Caroline Hodges, & she was willing that Fleming (Mr. Price) should have it if he (Price) would take it & pay her the mortgage or deed in trust upon it given to secure the payment of the St. John debt, & that he (Hodges) thought that his wife would let him (Cameron) and his wife have it if they would do the same. Cameron then said he wanted Hodges or his wife, or maybe both of them, to give him a written obligation to that effect, as life was uncertain & that Price had no written
330 title to the place. Hodges refused to give the written — & Mrs. Hodges must be consulted thereon before any written obligation could be given. This about ended that part of the conversation. Mr. Cameron then asked to be permitted to see Mr. Price's papers. Judge Hodges then called little Jimmie Hodges, his nephew, & told him Price's papers & trunk are in the other room, the papers in an old bag, & to get it & show them to Mr. Cameron. Cameron then went out with Jimmie & was gone awhile & said, upon his return, that I have examined the papers and trunk or them. Judge Hodges & Mr. Cameron then had some conversation about going over to the "Arnold place." I do not know whether they went or not. When they came back Mr. Cameron talked as if they had been there & seen the "Arnold place." At bed-time Judge Hodges left my room & said he was going to bed. I did not see him any more until next morning. Mr. Cameron remained in my room & slept with me.

331 Next morning after breakfast Judge Hodges had Fleming's horse & saddle brought out & told Mr. Cameron that he could take it if he wanted to do so. During the above conversation there was something said about the watch and the wearing apparel, but I do not now remember it- substance or words. Judge Hodges & Mr. Cameron went out to where the horse was hitched & Mr. Cameron got on it & rode away, & I have never seen Cameron or the horse since. I never had nor heard any other conversation with Mr. Cameron upon the subject of Price's affairs except the one above detailed. In the conversation Judge Hodges said to Cameron that what he (Hodges) and his wife had done or proposed doing for Fleming Price were mere acts of kindness & love that they had

for him, and that neither he nor his wife owed him anything, unless it was a balance on his salary as their manager on the
332 "Arnold place." This is in substance about all I now remember. I stated in my original examination that Price was discharged in bankruptcy on the 12 of June, 1879; the true date, as my memoranda shows, is Feb'y 12, 1879. Mr. Price's petition in bankruptcy was filed at Helena on 1st day of April, 1878. I also stated in my examination-in-chief that Mrs. Hodges' purchase of the "Arnold place" under her foreclosure decree against Price made by Richard L. Hardin as com'r was made on the 12th day of March, 1877. The record shows, which, I think, is a true date, that it was on the 12 day of February, 1877. The record which I refer to was filed with my examination-in-chief.

X examination:

Since giving my former deposition I have read the deposition of Mr. Cameron & his wife taken & filed in this cause. I do not know personally what papers Jimmie showed Mr. Cameron.
333 I have heard Mrs. Hodges say that she had one or two nieces in South Carolina, & that she would be pleased if Fleming Price married one of them.

THOMAS M. PETERS.

W. F. MADDOX, a witness of lawful age, was also then and there to me produced, &, after being by me duly sworn according to law, upon his oath says:

My name is W. F. Maddox; I am 37 years old; I live in Crittenden county, Arkansas, & have lived there about 12 years. I am acquainted with the defendant, Asa Hodges, and was slightly acquainted with Mrs. C. S. T. Hodges, and have met Mrs. Cameron & her husband, and was acquainted with Mr. Fleming Price. The other defendants I am not acquainted with. I have heard that this suit is about the Arnold plantation. I was also acquainted with Mrs. Wm. Price. I was present during the last sickness of Mr.
334 Fleming Price. I waited on him about 2 days before his death and was present when he died. I never heard of any will being made, but some remark about a horse. Mr. Price said to Mr. Jimmie Hodges that he would like to give him the pony if his uncle, Asa Hodges, did not object, and wished his sister, Mrs. Cameron, to have his watch. He spoke of pistols, but don't know what he said. There was a black satchel w-ich he directed me to bring to him, which I did. He attempted to open it, but did not succeed. He then asked me to open it and I did so. He looked in it and asked me to take the contents out and carry them to the stove & burn them. I took them out, and as I did so he remarked that he did not wish Aunt Cally to see them, but they were not his. They had belonged to Tom Dougherty. After taking them I looked over them & seclected out some old receipts and returned them to the satchel

and burnt the pictures. Mr. Price said the papers were of no
335 account and to burn them also. I then hung the satchel back where I found it. Mr. Price died early next morning. He did not speak of any other property than his horse & watch. I saw Judge Hodges — Price while he was sick. He staid 40 or 50 minutes. Hodges was there the morning of Price's death. He came after Price was dead. Hodges had nothing to do with the black satchel while I was there. Price wanted Judge Hodges to send for his sister. He said he would do so, — is the cause of Hodges' hurrying off. The pictures burned were lewd, fancy pictures. I was with Price until his death & assisted in laying him out—superintending the washing & dressing. I thought Price had all necessary & proper attention, both from nurses and physicians. Judge Hodges was in feeble health at the time.

X examination:

Dr. T. C. S. Whitsill was the attending physician of Mr.
336 Fleming Price. I never got one of Mr. Price's pistols. I remember of having met Mrs. Cameron at the residence of Dr. T. C. S. Whitsill, in Marion, shortly after Price's death, & she made inquiries of him about her brother's, Fleming Price's, property. I knew she was his sister.

"Int'y." In the conversation with Mrs. Cameron in the presence of Dr. Whitsill at his, Whitsill's, residence, when interrogated by her as to whether or not her brother had left a written will, did you not say in substance that her brother would have Asa Hodges to write it all out, but he believed Asa Hodges did not call it a written will?

Ans. I did not; never talked about it in that manner. Mrs. Cameron asked me if her brother Fleming had a will. I told *him* I thought not, but Jimmie Hodges said to me that he, Fleming, had a will & made it in the presence of Judge Hodges and while the Judge was there, but *that* I knew that there was no written
337 will made, because there was no writing material where they were, but words passed between Judge Hodges & Price which I could not understand. I could hear some of them.

Intrg. Did you or not in the same conversation say that he had willed his property to his sister in Holly Springs, Mississippi, & his watch & chain to his brother-in-law, by the name of Cameron?

Ans. I did not.

Int. Did you or not in the same conversation say that Price had two pistols, & that — had given one to him Maddox, & the other to Jimmie Hodges?

Ans. I did not. In further answer to int. 9th I would say that I did say to Mrs. Cameron that Mr. Price said that he wished Mrs. Cameron to have his watch, but he said at the same time he wanted Jimmie Hodges to have his horse, provided his uncle, Asa Hodges, did not object. In regard to the pistols, I told Mrs. Cameron that Jimmy Hodges said that Mr. Price said that he wanted Jimmy to have one & me the other.

338 Int. Did you or not ever have but the one interview with her?

Ans. I did not.

Int. In said interview did you or not say to her that he wanted his sister to come to him, so that he could leave his papers in her hands, or words to that effect?

Ans. No. I told her that he wanted to send for her, but said nothing about putting papers in her hands.

Int. Did you or not in that interview with her say to her that, "When her Bro. found out that she (meaning his sister) could not get there that he asked you to hand him a little black valise, & that he took out two bundles of papers & gave one to you to burn up & tied up the others & put them in the valise & told you not to let Asa Hodges or his wife get their hands on them?" Did you tell her this, or words to that effect?

Ans. I did not, but told her that there was a little satchel
339 that contained some papers that he asked me to destroy, and that I did so, and told her they were of no value, and that he said they were Judge Dougherty's papers.

Int. Did you or not in that interview with her say to her that you supposed they were love letters, as you saw some photographs amongst them when they were burning, or words to that effect?

Ans. I may have said something to that effect.

Int. In that interview did you or not say to her, when they asked you why you did not keep and give to her the papers as her Bro. requested, "That you did not know what to do, as she did not get there that night?"

Ans. I did not.

Int. Did you or not in that interview with her say to her, "That as soon as her Bro. died Asa Hodges took all the papers out of the valise or trunk & put them in a paper bag & carried them & the valise to the house, remarking at the time that when Willie
340 Price died all of the papers were destroyed & that he would see that Fleming's were preserved," or words to that effect?

Ans. No; I did tell Mrs. Cameron that shortly after her brother's death Judge Hodges came & took the trunk with the papers; the papers were put in a cotton sack & put in the buggy, & that Hodges remarked that he wanted to take care of the papers.

In. How long was this after his death, & was Judge Hodges his adm'r or ex'r?

Ans. This happened about 2 or 3 hours after Price's death, & Judge Hodges was not, as I know of, his, Price's, ex. or administrator.

Int. In that interview with her did you or not say to her that the night before Price died that he sent down to a man near by for a little grocery ac. he owed & said it was all right & that *& that* his sister would pay it, he remarking that he was square with the world & that he knew that his sister would come & move his
341 body to Memphis; that he did not wish to be burried in Ark., or words to that effect?

Ans. I did not. If I told her anything about it I must have told her that Mr. Price told the Murray Brothers that Judge Hodges would settle his bill with them; that it was all right. The Murray

boys did send in their account that night. Price was keeping house & had a cook. We were fed from his table during his last illness. He also had bedding, &c., upon which we slept.

W. F. MADDOX.

W. F. HARDIN, a witness of lawful age, was then & there to me produced, &, after being duly sworn, on his oath says:

My name is W. D. Hardin; I am 42 years old; I live in Crittenden county, Arkansas, & am by occupation a farmer. I have lived in the above-named county for the last 16 years. I know some of the parties to this cause & I know that the subject is the "Ar-
342 nold place," in Crittenden county, Arkansas. I had several conversations with *with* Fleming Price in regard to his title to the "Arnold place." The last conversation I had with Price was about one week before he died. He said he wanted to buy my store on the 15-Mile bayou or the 80 acres I had on the Nesbit place, saying he was tired staying on the "Arnold place" doing nothing, & that if he could not get my store he was going to Texas; that the "Arnold place" had involved him in trouble ever since he had been there; that his brother William was always drinking & Dough-rty had forced him to take the bankrupt law & was sorry he had come to Arkansas; that if he ever left here and made anything the people he bankrupted on would always be after it; that if I would rent him the corner store he would quit & go to it as soon as he got what was coming to him, saying, Will., you know I have got nothing here & no
343 interest in this country; that your brother Dick, my only companion, is dead, & I am going to leave as soon as I can if I don't get the corner store. I was intimate with Price in his lifetime. I went over to Mr. Price's. I found the first coffin too short & went & got another. The coffin I got was a fine metallic case & box. Price died 15 miles from Memphis. There was some delay in the burial by reason of the mistake in the coffin. The corpse could not be carried over to Memphis because Gus. Fogleman would not suffer it to go over without a permit, and I had none. I saw Mrs. & Mr. Cameron at the boat on its arrival at Memphis; introduced myself to them; told them I was there on the same business they were, which was to meet the corpse, & that it would certainly be there if Mr. Hodges could get to the boat, as I had sent the coffin over. We stayed there until the 4-o'clock boat came; corpse
344 did not come. I then told them that I knew that Mr. Hodges did not have time, as it would take two (2) teams. I was not in Arkansas at all the day of Price's burial, as I went over to Memphis the night before, & I told this to Mrs. Cameron. I was present on the day that the "Arnold place" was sold by R. L. Hardin, com'r, & I bought it in for Mrs. Hodges, & I understood that Price was going out & Mrs. Hodges was going in. Price was present at the sale, & told me he was going to take charge of the place for Mrs. Hodges for a salary, but did not say how much & I do not know.

X examination :

I am the administrator of F. H. Price. Peter Dougherty & I looked over Fleming Price's papers, at Mr. Asa Hodges', about 18 months or 2 years after Price's death ; they are there now. I don't know how it happened that all of Price's mules, farming utensils, &c., were sold under the R. L. Hardin trust. F. H. Price had
345 been in possession of the "Arnold place" ever since his purchase, in 1872 or 1873. Mr. Asa Hodges has never accounted to me for any of the crops raised on the place or for any of the property on there when Price died. I considered Price a man of truth and integrigty, & I also knew Mrs. Hodges, & would believe anything she stated as to how she held this property as far as she knew ; she was truthful. Mr. & Mrs. Hodges never informed me about the crops & property on the place ; hence I have taken no steps about it. I did not say to Mr. & Mrs. Cameron that the wagon was in ½ mile of the boat when the whistle blew ; I was not here in Ark., & I do not know that Capt. Fogleman had a permit to carry the corpse over.

Further the deponent saith not.

W. D. HARDIN.

The foregoing depositions were taken before me at the time and place in the caption & notice mentioned ; that each of said
346 witnesses were duly sworn by me before giving his testimony, & that the same was read over to each of them before signing, & that during the taking of the same the plaintiffs were present by D. H. Poston, Esqr., their attorney, and the defendants were also present by Thomas M. Peters, Esqr., their attorney, the defendants Asa Hodges being also present in person.

R. F. CRITTENDEN,
Special Commissioner.

(Endorsement :) Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* No. 376. Depositions of Willie Campbell, Coote Knox, Perry Arnold, Peter Dougherty, Thomas M. Peters, W. F. Maddox, & W. D. Hardin, to be read on behalf of the defendants in the above-entitled cause. R. F. Crittenden, sp'l commissioner. Filed January 8th, 1883. Bell W. Etheridge, cl'k. W. B. Weisiger, D. C.

347 *Deposition of Asa Hodges Taken by Consent.*

U. S. Court, Memphis. In Chancery.

A. E. CAMERON *et al. vs.* ASA HODGES *et al.*

1. What connection have you with this suit ?

Ans. I am defendant and I am acquainted with complainants.

2. What did you know of and what business transactions have you had with Fleming H. Price, deceased ?

Ans. I have been on intimate terms with Fleming H. Price, deceased, since 1869, when he came to Crittenden Co., Ark. The first year he managed my wife's place at a salary of twenty-five dollars per month and his board, and the next year he done the same work for thirty dollars per month and his board, and he continued to do the same work at a salary of forty dollars per month until
348 he purchased his brother William's interest in the Arnold tract of land and Peters tract of land and the mules and stock on the said Arnold place in August, 1874. In the purchase of the interest of Wm. R. Price in said two tracts of land he, Fleming H. Price, assumed and agreed to pay off and satisfy the notes given to myself by said Wm. R. Price and himself for the Arnold tract and stock, &c., amounting to about twenty-five thousand dollars or more, including interest. The sale made by me of the said Arnold tract of land to the said W. R. and F. H. Price was made on the 14th day of May, 1872, and said Fleming went into possession of the said Arnold tract of land and used it and cultivated it as his own after his purchase in August, 1874, from his brother, and paid taxes on it until the said tract was sold under a decree of the chancery court
349 in the county of Crittenden, in the State of Arkansas, in favor of my wife as complainant, F. H. Price and myself as defendants, which decree was obtained upon said W. R. Price and F. H. Price's note given to myself for the purchase-money of said Arnold tract of land with stock and farming implements in favor of C. S. T. Hodges, as complainant and assignee of said notes from one Joseph F. Dowdy, and by me transferred to Joseph Dowdy — a valuable consideration, and by said Dowdy assigned and transferred to my wife, C. S. T. Hodges, in payment of money due by him to her, who filed an equitable bill upon said notes against said Fleming H. Price and obtained a decree for about the sum of twenty-one thousand dollars, leaving a balance not included in the decree upon one note not due until January 1st, 1877. After said
350 decree was obtained by my wife, C. S. T. Hodges, against said F. H. Price one R. L. Hardin was appointed commissioner by the court to sell the property. Said R. L. Hardin employed said Price to take care of the property until the day of sale, which he done, and on the day of the sale said Fleming H. Price had the farming tools, horses, mules, and wagons all turned over to the commissioner and were sold, with the land on the premises of the Arnold place, in the presence of said F. H. Price, on the 12th of Feb., 1877. The land brought, in round figures, about sixteen thousand dollars and the personal property over twelve hundred dollars, which reduced the debt of Price about seventeen thousand two hundred and forty-one dollars, and the same was credited
351 on his notes on the decree and notes After C. S. T. Hodges purchased said land said Hardin put her in possession of the land and stock, &c., and I employed said Price to stay and manage the place for her at a salary of five hundred dollars per annum and board him, and he then agreed to do so, and then took charge of the place and stock for her as her agent and manager, and so continued until he died, in November, 1880. Said R. L. Hardin paid said Price

one hundred and twenty dollars for his services in taking care of the stock and place until the day of sale. Said Price made no objections to the sale and agreed very readily to manage the place for my wife if she would agree to pay him in cash for his services and not credit the amount on his indebtedness to her, to all of
352 which she consented, and shortly thereafter he filed his petition in bankruptcy and was discharged. After the said Price was discharged in bankruptcy I said to him, If you still want the Arnold tract of land and mules on it my wife will sell it to you if you will pay the balance due upon the St. John debt out of the proceeds of the crops on the place. He said, No, I don't intend to embarrass myself again. I am out of debt and feel free and I don't want the Arnold place. I have had bad luck ever since we bought the place and I will never undertake a big debt again. He said, If you and Aunt Cally want me I will stay with you until that debt is paid, and then I would like for her to aid me in going into business of some kind besides farming, as I am tired of that kind of a life. Frequently after that I
353 insisted on his taking a deed for the place and assuming the payment of the mortgage to St. John, but he always refused and said he was tired of farming and preferred to merchandise. Our friendship and attachment for said Price was very great, and we both felt that when the St. John debt was paid that we intended he should be gratified in changing his business to suit himself, in any way that he might wish. My wish and desire was for him to become the owner of the Arnold tract of land, but he seemed to have a complete distaste for the place after his failure and bankruptcy and would not entertain any idea of purchasing the place. He seemed to attribute all his bad luck to the Arnold purchase.

354 3. Did you sell or mortgage to him any property at Little Rock; if so, upon what terms and how?

Ans. About the time the crop was maturing in 1874, said Price feeling and believing that he could pay any kind of a debt, he purchased of me the Odd-Fellows' Hall and 2 store-rooms under the same, in the city of Little Rock, and several tracts of land for which he agreed to pay certain debts of mine, and among them was a debt to my sister, Mary Jane Phillips, and in our general break-up he became unable to pay anything, and so did I, and bills were filed by Mrs. Phillips and others to enforce the sale of the Odd-Fellows' building and the lands conveyed by me to him, and in this way and on account of the purchase of the Arnold land and the Peters
355 tract from his brother William said F. H. Price became greatly embarrassed. In the purchase of the Arnold and Peters tracts of land of his brother, William R. Price, he assumed to pay for his brother, William H. Price, about nine thousand dollars to J. F. Dowdy, and Dowdy pressed the collection of his debt, which disabled said F. H. Price from paying any of his other debts and so embarrassed him that he could not meet a single other obligation of his, and had to give up and go into bankruptcy.

4. When was he taken sick and of what did he die; what was your own physical condition about the same time?

Ans. In the summer and fall of 1880 F. H. Price and myself were both taken sick and so remained puny and feeble all fall, neither of us feeling able to do any kind of business, but we kept on our feet, and on the last of October F. H. Price was looking
356 after the ginning of cotton and some of the hands let the sledge hammer slip and struck him on the head, and a day or two after he was taken sick and never recovered. The d'rs said he had a violent attack of pneumonia, from which he never recovered.

5. What, if anything, do you know of the last illness, death, and burial of said Price, and of his papers and effects, as well as of a will, if there was one?

Ans. When said Price was taken sick I was so feeble myself that I could not give him such attention as I thought he needed, but I sent my nephew, James Hodges, Jr., who was assisting me at the Home place, to wait on him and attend to his wants, and he advised me two or three times a day about his condition, and on Saturday before he died he sent me word that he thought he would be
357 up by Monday, and I then came over to see my family in Memphis and remained until Monday morning, and when I got home the cook said to me, Mr. Price sent for you this morning, stating that he was not expected to live. I did not get off of my horse, but rode up to see him at once and found him at himself, but very low. I sat down by him, so depressed and overcome that I could hardly talk to him. I said, Fleming, do you know that you cannot live but a short time? He said, No; I think I will get well. I said, No, Fleming, that it is not possible; so he called Dr. Whitsell, one of his attending physicians, to him and asked Dr. how he thought about his case. The Dr. said, You are very low and will hardly recover, or words to that effect. He then asked the Dr., How long can I live? The Dr. said, Not a great while. He then replied, That is what
358 I want to know; and the Dr. then withdrew to the fireplace, as it was quite cool, and said Price began to tell me that he had settled with all the hands for me on the place and left the statements of the balance at the bottom of each amount so that I would have no trouble. I stopped him at once and said to him, Do you want me to send for your sister? He said he had sent for her, but had recalled the dispatch, but he wished I would do so. I started a man in a short time after with a dispatch for his sister "Leffy," as he called her, and I then asked him if he had any wishes for me to fulfill. He said, No; and then started again: And if I have anything I wish my sister Leffy to have two shares of it and my other sisters one. He then became so weak and exhausted
359 and his throat so full of phlegm that he did not continue the statement further, but began where he *valued* to talk on other matters about his little acc't with Mess. Murray and others, and about his condition. He was not inclined to believe that he could not live but a short time and seemed to be hard to convince of his near approach to death. I was myself very feeble, and I said to Fleming, I will go back home and come and stay with you to-night; he said, No, I have plenty of help and you are not able to be out. I then left with the intention of returning that night. When I got home I was com-

pelled to go to bed, as I had fever and was very feeble. A few hours after I got home a messenger came stating that Mr. Price, he
360 thought, was better; and at night another came stating that the Dr. said he was fast sinking; and about 11 o'clock in the night another messenger came stating that Mr. Price would not live longer than morning; and in the morning another messenger came stating Mr. Price was dead. I got out of bed and rode up in my buggy and found him a corpse, but before I started I sent a man to Memphis for a metallic coffin, with instructions to tell my wife that Fleming had requested me to have him buried in Elmwood, and that I would be over with the corpse as soon as I could, and that I would have his remains laid in a vault till I could get a lot to suit us. When the coffin returned it was found too short, and Mr. W. D. Hardin volunteered to go back that night and send another one in
361 its place, which he did on the first boat. I renewed my statement to my wife by Mr. Hardin to tell her that we would be over with the corpse as soon as we could. When the coffin came by I requested them to hurry up, as we would have no time to lose if we got on the last boat that evening. About an hour after the coffin passed by going after the corpse a messenger came from Capt. Fogleman notifying me that I could not carry Mr. Price's corpse to Memphis without a permit from the board of health in Memphis; that I did not have, and I then concluded to have a grave dug at the Home place and bring him there until I could arrange to have him removed to Elmwood, where he requested to be buried. The grave was not completed when the corpse arrived on its way to Memphis.

362 6. What became of his papers, account books, &c., if he had any; did you personally examine them?

Ans. When I went up to the Arnold place after I heard of the death of said Price I told my nephew, Jimmy Hodges, to get me the books Mr. Price kept the accounts of the hands in, and put them in the buggy, stating that I did not want them left there without the care of any white person, as he and I would go with the corpse to Memphis, and he brought out or sent out a trunk containing his books and papers, and it was too large to carry in the buggy, so I put the account books in the buggy and emptied his papers in a pillow slip and carried them home and put them in my room and kept them there till his brother-in-law came over and examined them all in person—the husband of "Liffy"—a day or two
363 after said Price was buried. I made no examination of these papers myself.

7. How soon after his burial did you see Mr. and Mrs. Cameron? Did you explain the matter to them, and with what result?

Ans. After the burial of said Price I got on my horse and rode down to Hopefield and crossed the river in a skiff to Memphis, and when I got home I found Cameron and wife there waiting to hear from said Price's remains. I repeated to them what passed between myself and Fleming Price just before he died and about his wishes in regard to his being buried in Elmwood Cemetery, and said to them I had exhausted all my energies to have him brought over,

but I had failed because there was no permit from the board
364 of health sent with the coffin to warrant the captain of the ferry-boat John Overton in bringing the corpse to Memphis, and the captain notified me just a- we were starting to Memphis with the corpse that he could not carry the corpse to Memphis without a permit from the board of health, so I did not have it and had to bury him at home until I could arrange a place in Elmwood and a permit. There seemed to be no dissatisfaction with Mr. Cameron or his wife about the course I had pursued at that time, and I did not know that my conduct was not satisfactory to them until the bill in this case was filed.

8. What transpired between yourself and the Camerons regarding the Arnold place, and where did it occur and before whom?
365 Ans. Mr. Cameron said that morning that he would go over with me next morning and examine the papers of said Price and get his horse, as I wished Mr. Cameron to have her horse. He and I went over next day and rode over to the Arnold place, where the said Price had died, and returned to the Home place and there staid all night, and during the evening, after supper, the subject of said Price's death came up in Judge Peters' room in regard to what Mr. Price had when he died. I told Mr. Cameron that Fleming Price had nothing that I knew of except his saddle horse, which I had given him some time before his death, his gold watch and chain, and wearing apparel, and that I had understood that Mr. Price had, before he died, requested that he, Mr. Cameron,
366 should have his horse and watch and chain, and that his aunt Cally, meaning my wife, his watch, but that Mr. Price had said nothing of the kind to me, but that I wanted him to have the horse and chain and the watch, if my wife was willing. Mr. Cameron then said you and Mrs. Hodges both seem willing that w-en the St. John debt is paid out of the proceeds of the crops on the Arnold place that Mr. Price's wishes should be carried out by letting his sisters have the place. Now, he, Mr. Cameron, said, Will you and Mrs. Hodges give us a bond or obligation to that effect, to let Mr. Price's sisters have the place when all of the balance of the St. John mortgage is paid with the crops hereafter grown on said Arnold place and the expenses of the said place? I replied to
367 Mr. Cameron, in the presence of Judge Peters, I could not advise my wife to give them any obligation; that it was because of our kind feelings to said Fleming that we had previous to his death insisted upon his taking the place, and that there was no legal obligation or moral resting upon him to let Mr. Price's sisters have the Arnold tract of land, as she had always paid him for the services he had rendered her during the time he had been employed by her, and that she could not mend said Price's mistakes and misfortunes which had overtaken him in his business operations. Mr. Cameron then said that unless they could get an obligation from my wife that it did not seem to him there was much in the estate for them, as Price had no deed or writing
368 for the place. I told Mr. Cameron then that we had always gratified Mr. Price's wishes during the time he had been with

us, except to aid him in buying a grocery at the Fifteen-Mile bayou, and would have done that if I had not believed it would have precipitated his death and ruin, as he was given to habits of dissipation when within reach of liquor and a dissipated young man. Mr. Cameron saddled said Price's horse and rode him to Memphis next morning without any further conversation. The conversation as detailed by me as occurring before Judge Peters at the Home place the night of the 4th of November, 1880, with Mr. Cameron and myself is substantially stated by me, as I now recollect.

9. Why did you transfer the Price notes to Dowdy, and
369 why did he then transfer them to your wife?

Ans. The notes of said W. R. Price and the said F. H. Price were assigned and transferred by me to J. F. Dowdy for a valuable consideration, and by said Dowdy to my wife in payment of money which said Dowdy owed her upon settlement with her as her commission merchant, as he had sold her cotton for a number of years.

10. Had you or not other communications with Mr. Cameron, and to what effect?

A. There were other conversations between Mr. Cameron and myself in regard to said Price's affairs, but they were about the same each time and resulted in about the same way.

11. Had you any other intercourse with Mrs. Cameron regarding the Price land, and with what result?

370 Ans. There was another interview with myself and Liffy at my house in Memphis last July or August, when she asked me if I would not let said Price's heirs have the Arnold place after using the present crops for 1882 in paying the St. John mortgage. I said to her most emphatically I would not, and immediately afterwards the present bill was filed by her and others of Mr. Price's heirs.

12. Do you know whether or not Mrs. Hodges executed, acknowledged, and delivered a deed to Price conveying that land? Did he accept one or not?

Ans. My wife, in the spring of 1880, asked Judge Peters to write a deed to the Arnold place for her so she could let said Price buy it, and in consideration of the deed let him agree to pay the bal-
371 ance of the St. John mortgage debt on any time that would suit said Price. Judge Peters, I think, prepared the deed and asked said Price if he would not take the land and pay the debt, and Price told him as well as her that he would not. He said to me Judge Peters had often urged him to make the trade, but that he never would undertake another big debt; that he wanted a store and go to merchandising. He said that he had so stated to Judge Peters and Mr. Hardin and others the same thing.

13. Do you know of any will having been made by Price, and especially of any written will by him, or of any deed to that land?

Ans. I never knew of any will made by said Price during his lifetime except the wish he indicated to me just before he died, as I have before stated; I never knew of any deed made to said
372 Price for said land since his bankruptcy except as above stated; do not believe he ever had any deed to the said land

except the deed made by myself to W. R. and himself in 1872 and by William, sold to F. H. Price, in 1874.

14. Who has paid taxes upon the above-described property? Please exhibit copies of the tax receipts if you have them.

Ans. The taxes on the Arnold place were paid by F. H. Price during the time he held it as his own property; the last taxes he paid on said tract of land were paid in 1876 for the year 1875, as is shown by a copy of the tax collector's receipt, — is herewith filed and made a part of this my deposition and marked Exhibit "A." The taxes after the sale of the said Arnold tract of land in 1877, and purchased by my wife, C. S. T. Hodges, were paid by her up to *the taxes*
373 last year, and they have not been paid on that land, nor on any other of her lands. The tax receipts are herein filed and made a part of this my deposition and marked Exhibits B, D, C.

15. What do you mean by the tract of land called the Peters place in your deposition?

Ans. I mean by the Peters tract of land a place in Crittenden county, Arkansas, purchased by me in 1866 for taxes, $\frac{1}{3}$ assigned by me to R. S. Check, deceased, and $\frac{1}{3}$ to Davis Townsend, deceased, who were jointly interested with me in the purchase at a tax sale in 1866. I sold my one-third to Wm. R. Price, deceased, and put him in possession of the same, and said Wm. R. Price sold his interest to Fleming H. Price, deceased.

16. Do you remember whether or not the complainant, Mrs.
374 Anna E. Cameron, wrote you, soon after the death of her brother, regarding his estate; if so, will you please make search for the letter?

Ans. I do remember distinctly that Mrs. A. E. Cameron wrote me a letter dated the 4 of November, 1880, in regard to her brother's estate. I have the letter now in my possession.

17. How long was this after the death of her brother; where was she and where were you at the time?

Ans. This letter was written to me two days after the death of her brother, as appears from its date. She wrote the letter shortly after I left her, on the morning of the 4 of November, after her husband and myself had gone to Arkansas. When I started to Arkansas I left her at my residence, in Memphis, where she and her husband had staid the night before. The letter was addressed to me
375 at Marion, Arkansas, my post office.

18. Did you state in that letter how much was due upon the property; if so, what did she say? And — whether or not she was willing that it should be paid.

Ans. She stated the amount correctly—fifteen thousand dollars—and that she desired the last dollar paid.

19. In what way was this $15,000 due, and how did she know the fact?

Ans. It was the balance due on the St. John mortgage, and I had explained it to her the night before at my residence, in the city of Memphis.

20. Are you familiar with the handwriting in which the letter is

written; if so, who wrote it? Attach a copy of it as an exhibit and leave the original with your counsel for inspection of parties
376 and to be filed at the hearing of this cause.

Ans. I have frequently seen the handwriting of Mrs. A. E., and believe the letter is in her handwriting. She told me also that she had written me such a letter. I attach a copy of the letter to this my deposition, marked Exhibit —; leave the original, as requested, with my attorney for inspection and for filing on final hearing of this cause.

EXHIBIT A.

Copy.

STATE OF ARKANSAS, *County of Crittenden:*

COLLECTOR'S OFFICE,
MARION, ARK., *April* 12, *A. D.*, 1876.

Received of F. H. Price ——, being the amount of taxes assessed for the year 1875 in Crittenden Co., Ark., on real estate detailed below, including poll and personal property.

Acres.	100ths.	Parts of sections or No. of survey.	Lot.	Block.	R'ge.	Value.		Doll's.	Cts.
		All	16	7	8	9,680	State tax	90	70
		W. ½ W. ½	15	7	8	800	State in. F. tax	54	42
		x x					State school tax		x
		x x					County tax		x
		x x					Poor tax		x
							R'd & bridge tax, &c.		
							Dist. school tax		
							Poll tax		
377		Total valuation of personal property							
		Tax on poll and personal property							
		Total						453	50

E. B. LEWIS,
Collector of Crittenden Co., Ark.,
By —— ——, *Deputy.*

Ex't B.

Copy.

STATE OF ARKANSAS, *County of Crittenden :*

COLLECTOR'S OFFICE,
MARION, ARK., *April* 5, *A. D.* 1877.

Received of C. S. T. Hodges —— dollars, being the amount of taxes assessed for the year 1876 in Crittenden Co., Ark., on real estate below detailed, including poll and personal property.

Acres.	100ths.	Parts of sections or No. of survey.	Sect.—lot.	Town.—block.	R'ge.	Value.		Doll's.	Cts.
		W. ½ W. ½	15	7	8	800	State tax	20	96
		All	16	7	8	7,680	State in. F. tax	71	88
		x x					State school tax		x
		x x					County tax		x
		x x					Poor tax		x
							R'd & b'dge tax		x
							Dist. school tax		x
							Poll tax		x
Total valuation of personal property									
Tax on poll and personal property									
Total								384	36

E. B. LEWIS,
Collector of Crittenden Co., Ark.

378 EXHIBIT C.

Copy.

STATE OF ARKANSAS, *County of Crittenden:*

COLLECTOR'S OFFICE,
MARION, ARK., *April* 12, *A. D.* 1878.

Received of Mrs. C. S. T. Hodges —— dollars, being the amount of taxes assessed for the year 1877 in Crittenden Co., Ark., on real estate below detailed, including poll and personal property.

Acres.	100th-.	Parts of sections or No. of survey.	Sect.—lot.	Town.—block.	R'ge.	Value.		
								Doll's. Cts.
		W. ½ W. ½	15	7	8	800	State tax	
		All	16	7	8	7,800	State in. F. tax	
		x x					State school tax	
		x x					County tax	
		x x					Poor tax	
							R'd & b'dge tax	
							Dist. school tax	
							Poll tax	
Total valuation of personal property								
Tax on poll and personal property								
Total								616 89

J. S. GRIDER,
Collector of Crittenden Co., Ark.

379

EXHIBIT D.

Copy.

STATE OF ARKANSAS, *County of Crittenden:*

COLLECTOR'S OFFICE,
MARION, ARK., *M'ch* 24, *A. D.* 1879.

Received of A. Hodges for Mrs. C. S. T. Hodges —— dollars, being the amount of taxes assessed for the year 1878 in Crittenden Co., Ark., on real estate below detailed, including poll and personal property.

Acres.	100ths.	Parts of sections or No. of survey.	Sect.—lot.	Town.—block.	R'ge.	Value.		
								Doll's. Cts.
		W. ½ W. ½	15	7	8	900	State tax	
		All	16	7	8	7,680	State in. F. tax	
		x					State school tax	
		x					County tax	
		x					Poor tax	
		x					R'd & b'dge tax	
		x					Dist. school tax	
							Poll tax	
Total valuation of personal property								
Tax on poll and personal property								
Value								637 80

W. F. BEATTIE,
Collector of Crittenden Co., Ark.

380 EXHIBIT E.

Copy.

STATE OF ARKANSAS, *County of Crittenden:*

COLLECTOR'S OFFICE,
MARION, ARK., *April* 6, *A. D.* 1880.

Received of Mrs. C. S. T. Hodges —— dollars, being the amount assessed for the year 1879 on real estate below detailed, including poll and personal property.

Acres.	100ths.	Parts of sections or No. of survey.	Sect.—lot.	Town.—block.	R'ge.	Value.		
								Doll's. Cts.
		W. ½ W. ½	15	7	8	900	State tax	
		All	16	7	8	7,680	State in. F. tax	
		x x					State school tax	
		x x					County tax	
		x x					Poor tax	
		x x					R'd & b'dge tax	
							Dist. school tax	
							Poll tax	
Total valuation of personal property								
Tax on poll and personal property								
Total								374 06

W. F. BEATTIE,
Collector of Crittenden County, Ark.

381 EXH'T F.

Copy.

STATE OF ARKANSAS, *County of Crittenden:*

COLLECTOR'S OFFICE,
MARION, ARK., *April* 5, *A. D.* 1881.

Received of Mrs. C. S. T. Hodges —— dollars, being the amount of taxes assessed for the year 1880 in Crittenden Co., Ark, on real estate below entailed, including poll and personal property.

Acres.	100ths.	Parts of sections or No. of survey.	Sect.—lot.	Town.—block.	R'ge.	Value.		
								Doll's. Cts.
		All	16	7	8	7,000	State tax	
		W. ½ W. ½	15	7	8	750	State in. F. tax	
		x					State school tax	
		x					County tax	
		x					Poor tax	
		x					R'd & b'dge tax	
		x					Dist. school tax	
		x					Poll tax	
Total valuation of personal property								
Tax on poll and personal property								
Total								607 49

W. F. BEATTIE,
Collector of Crittenden County, Ark.

EXHIBIT G.

382 Copy.

MEMPHIS, TENN., *Nov.* 4, 1880.

MY DEAR UNCLE: In view of the expense of traveling and the inconvenience of leaving home, and in view of the uncertainties of human life, I have concluded that it would be best for us to fix up our business before I leave the city. I want you to know that I think your proposition is as fair as we could ask, and if you will fix up and get Aunt Callie to sign the obligation you promised to give I will go home perfectly satisfied, and I believe all the children will be. I would suggest that you get Judge Peters to fix up the papers, and you can bring them over when you come; Aunt

Callie can sign them at once. I have decided, on this account, to remain over till I can see you again. I am very grateful for your kindness and have every confidence to believe you will do all
383 that Flemmie requested should be done, and with this one matter arranged I shall rest perfectly satisfied till the last dollar of the fifteen thousand is paid. I am very anxious to have everything arranged so that I can leave on the train early Monday morning.

Your affectionate niece, A. E. CAMERON.

A true copy.

L. H. ESTES.
W. G. WEATHERFORD.

Cross-examination by HUMES and POSTON:

X Q. 1st. Are you not the same Asa Hodges that was the defendant in the case of St. John *vs.* Hodges, reported in our supreme court reports?

Ans. I was.

X Q. 2. Were you present at Sardis, Miss., with your counsel, W. G. Weatherford, Esq., when the deposition- of Anna E. Cameron and her husband were taken, and did you not hear their evidence
384 given and were you not offered and asked to cross-examine them and declined to do so?

Ans. Yes.

X Q. 3. Were you present when the deposition- of Mrs. Barton and Wm. Hargus were taken and were offered these witnesses to be cross-examined?

Ans. Yes.

X Q. 4. Have you ever removed the remains of F. H. Price to Elmwood cemetery, as you agreed to, or does his body still remain buried in Arkansas?

Ans. I have not. I had procured a lot in Elmwood just before this suit was brought, but since then I have done nothing.

X Q. 5. Is or not Judge T. M. Peters, whose deposition you have taken and filed in this cause, now living at your house and has he not lived there, off and on, for many years without paying board?

Ans. Judge Peters' home is at Moulton, Ala.; he stops at my house while attending to his business in Crittenden county.
385 The matter of compensation has been answered in his deposition.

X Q. 6. Has he not been your main witness in all the important lawsuits against you for years past? Did he not testify in your suits at Little Rock, in the St. John *vs.* Hodges suit, and the suit of Dowdy *vs.* you and wife, at Helena, Ark.; the suit of Dan'l Hughes *vs.* you and your wife's estate, and also in your bankrupt suit at Fort Smith, Ark.? Please state — what other suits he has been your main witness.

Ans. He was my old law partner, and since has been my attorney. In matters regarding papers prepared or business transacted

by him he has been called to testify when deemed necessary. I believe he was a witness in all the cases you have mentioned.

X Q. 7. Was he not one of the radical judges on the su-
386 preme court bench of Alabama during the years of reconstruction in that State, soon after the late war; if so, for what years?

Ans. He was one of the supreme judges in Alabama since the war; don't remember the years. In politics he was a Republican.

X Q. 8. If he ever lived in Alabama please state the place of his residence and how long he lived there.

Ans. He is, I think, a native of the State; born in Lawrence county; has lived there ever since, and does now, and is nearly seventy years of age.

X Q. 9. Near what town or city has he resided since the war in the State of Alabama?

Ans. Moulton, Alabama.

X Q. 10. Has not the witness, Judge T. M. Peters, been residing with you and at your house for the past two years almost continuously? If absent at his home in Alabama state for what length of time and when.

387 Ans. Less than half of his time; I can't give dates.

X Q. 11. Did your wife and yourself ever execute any deed or contract as requested in the copy of the letter you have filed as Exhibit "G" with your deposition, and which you say was written to you by Mrs. A. E. Cameron?

Ans. We never did.

X Q. 12. Are you or not a man who is careful with business papers?

Ans. I am not very careful with business papers.

X Q. 13. Please produce and file any contract for services as manager of your wife's Arnold place you had with Fleming H. Price, and also receipts from him for moneys paid to him by you or your wife as manager of the Arnold plantation for the year in which he died or any previous year.

Ans. We had no written contract and we have no receipts for money paid him.

388 X Q. 14. Are you or not the executor of your own wife's estate, and have in your possession all of her papers?

Ans. Yes.

X Q. 15. Have you or not also in your possession the papers of F. H. Price which you got at his house at the time of his death?

Ans. I think I gave them to Mr. Hardin, the administrator.

X Q. 16. Please examine the record of the court in Arkansas in which Hardin, as commissioner, sold out the Arnold tract, and state the date the bill was filed.

Ans. 30th day of October, 1876.

X Q. 17. Then state when the answer was filed.

Ans. October 31st, 1876.

X Q. 18. And the date the decree of sale was entered.

Ans. 1st day of November, 1876. The transcript of record shows the answers to 16, 17, & 18 questions.

X Q. 19. Is it not the fact that Hardin, as such commis-
389 sioner, sold all the stock, &c., on the place at the time he sold out the Arnold tract?

Ans. It is.

X Q. 20. Was the stock embraced in the deed of trust to enforce which Hardin, as commissioner, sold and under which your wife became the purchaser?

Ans. I so understood it, and it seems the court was of the same opinion.

X Q. 21. Did not F. H. Price live upon the Arnold place at date of his death; did he not sleep there, keep house, &c.?

Ans. He did as manager and overseer and agent of my wife, C. S. T. Hodges.

X Q. 22. How long had he been thus living there, keeping house, prior to date of his death?

Ans. He lived there as overseer from the 1st January, 1875, up to the 12th February, 1877, and then until he died, as overseer and manager for C. S. T. Hodges.

390 X Q. 23. How far is the Arnold place from the place — you have resided for many years?

Ans. It adjoins the Home place by corners. The houses are about 2½ miles apart.

X Q. 24. Was he not living there at date of the Harding commissioner's sale, and did he not continue to live there to the date of his death?

Ans. 24. Yes, as before stated.

X Q. 25. What years were you and Judge Peters law partners, and where did you practice?

Ans. We were law partners from 1851 or 1852 up to 1860, in Moulton, Alabama.

X Q. 26. You say you think you gave the papers of F. H. Price to W. D. Hardin; when did you do so, and are you not mistaken, and do you not still retain them?

Ans. Some time after he qualified, when he called for them. They may be in my house. I turned them over to him and he
391 may have left them there; have not seen them since.

X Q. 27. Have you not shipped your crops of cotton of 1880, 1881, & 1882 to C. B. Clarke; if not, to whom were such crops shipped?

Ans. They were shipped chiefly to Mr. Clarke. The crop of 1880 was shipped here at Memphis.

X Q. 28. How far is it from your home place to Hopefield, Arkansas, and how far to Mound City?

Ans. About 13 miles to Hopefield, and to Mound City about 6½ miles.

X Q. 29. Were you not at one time the judge of probate or other courts in Arkansas or Alabama?

Ans. I was judge of probate in Arkansas in 1865. I think that was the year I was appointed.

X Q. 30. Is it or not the fact that a portion of the crop of 1880 was shipped to Dowdy & Co. or J. F. Dowdy, at Memphis?

Ans. I don't remember, but don't think Dowdy was in business that year, but won't be positive; don't think any cotton was
392 shipped to him, however.

X Q. 31. How much cotton was raised on the Arnold place for each of the years of 1880, 1881, and 1882, and how much was raised by you altogether?

Ans. At my earliest convenience I will attach a schedule showing how these matters are, making the schedule Exhibit "A."

X Q. 32. Did you ever turn over to said Hardin, administrator of F. H. Price, any of the crop of 1880, 1881, and 1882, raised on the Arnold place, or account to him for the proceeds or of stock, &c., on the place at the death of said F. H. Price?

Ans. No, sir; never have.

X Q. 33. Is or not the W. D. Hardin, who is the administrator of F. H. Price, the same person who is witness for you in this case?

Ans. Yes, sir.

—. Was he not a witness for you in your bankruptcy case and in the case of St. John *vs.* you, reported in our Supreme Court
393 reports, and is he not a witness for you in the case of Hughes' estate *vs.* you, now pending in the courts of Arkansas?

Ans. He was not a witness in the St. John case, but was in the bankruptcy case, and don't think he is in the Hughes case. He may be, but I don't recollect how this is. I don't remember about his being in St. John case, but he may have been.

And further deponent saith not.

A. HODGES.

Sworn to and subscribed before the undersigned this June 6, 1883.

W. B. WEISIGER,
D. C. U. S. Cir. C't, W. D. T.

Endorsed: No. 376. Equity. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* Deposition of Asa Hodges. Filed June 11th, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

Deposition of C. B. Clarke, Taken by Consent, in Behalf of Defendant Hodges.

394 U. S. Court at Memphis.

ANNA E. CAMERON *et al.*
vs.
ASA HODGES *et al.* } No. 376.

1. Please state if you are one of the defendants in this case.

Ans. I am.

2. Did you or your house purchase certain notes and the trust deed that secured them upon section 16 and the west half of west half *or* 15, township 7, range 8 east, in Crittenden county, Arkansas; if so, upon what representations did you get them and what is their condition now?

Ans. We purchased the notes and trust deed from Humes and Poston, att'ys of W. P. St. John, adm'r est. of A. W. Arnold, upon the representation of D. H. Poston, Esq., that the papers were properly drawn, that the security was undoubted, and that the
395 transfers made and to be made by them placed us in precisely the same legal standing that the owner thus occupied. They were both negotiated for before they were due; one was paid for before due and one, I think, the day it was due. We still own the two notes, and they are unpaid.

3. Did you know that Fleming H. Price was living upon the lands conveyed in trust; if so, in what position did he stand?

Ans. I knew that he was living upon one of the Hodges places, and supposed that he occupied the position of manager or agent.

4. Did your house ever have any business transactions with him or receive any shipments of cotton from him?

Ans. We never received any shipments of cotton from him and never had any business transactions with him, individually,
396 except once, to loan him a very small sum of money, which was afterwards repaid by being charged to the ac. of Mrs. C. S. T. Hodges. The amount loaned was less than $30.00.

5. Have you any account of cotton sent your house from the above-described land in the name of any one or can you get at or furnish a statement of cotton shipped for any year from that place?

Ans. We have no means whatever of identifying the cotton sent us from any of the places. It was all sent in various marks, but simply for account of Mrs. C. S. T. Hodges, to whom we accounted for its proceeds.

6. Have you at any time had any knowledge of the alleged ownership of the above-described land by the said Fleming H. Price?

397 Ans. Never prior to the filing of this bill, but always supposed that he occupied the position of manager for Mrs. C. S. T. Hodges.

7. Since the fall of 1878 has your house paid any drafts in favor of said Price drawn by Mrs. C. S. T. Hodges?

Ans. Yes, sir; several; in amounts varying in sums from fifty to one hundred and fifty dollars.

Examination by C. F. VANCE, att'y for C. B. CLARKE:

1st. Did you or, to your knowledge, any one of your firm know or receive any notice or intimation that before or at the date of said assignments of any infirmity in said debts assigned, or in the assigned mortgage to secure the same; and, if so, state what such infirmity was, and state when first it was brought to your knowledge that the lands on which said mortgage was given was owned
398 or claimed by other parties than said C. S. T. Hodges?

Answer. We had no notice of any infirmity, and did not have any intimation of any claim till the filing of this bill.

2d. In what sort of funds did you pay for said debts and mortgage, and when did you or your house pay the same?

Answer. We paid cash, and on the days that Humes & Poston's endorsements appear on the back of said notes.

Cross-examination:

—. Please file a copy from your books of the ac. of C. S. T. Hodges and Asa Hodges on your books, and also a statement of all moneys paid for them or either of them; and if their accounts or either of them shew these two notes, please state it.

399 Ans. The notes in controversy do not appear on our books in the accounts of C. S. T. Hodges or Asa Hodges, or in any account other than the proper one. Our books are subject to inspection by the plaintiff's attorney or any one interested.

Q. Were these notes actually purchased by you or your firm, or was the money advanced and the notes held as collateral to secure their account? Please copy from your books the entries as they appear thereon at the date of these purchases, if such you say they were.

Ans. The notes were an absolute purchase and not held as collateral. I will furnish to plaintiffs' attorney a copy of the entire — relative to these notes.

Q. Please give an itemized statement of all cotton shipped to you for ac. of Mrs. C. S. T. Hodges, or Asa Hodges, or any one for

400 them, giving marks of all cottons.

Ans. I will furnish the plaintiffs' attorney a list, showing dates, marks, and number of bales received for ac. of Mrs. C. S. T. Hodges.

And further saith not.

C. B. CLARKE.

Oath waived.

HUMES & POSTON.

Endorsed: No. 376. Equity. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al.*, *vs.* Asa Hodges *et al.* Deposition of C. B. Clarke for defendants. Filed June 11th, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

Marks of Cotton Rec'd for Ac. C. S. T. Hodges, Season 1879 & '80.

E. E. Clarke, formerly of Clarke, Ely & Co.; M. D. Johnson, formerly of Busby, Johnson & Co.; L. H. Coe, formerly of Busby, Johnson & Co.; C. B. Cla [torn off], formerly of Lloyd, Cl [torn off].

MEMPHIS, TENN., —— —, 18—.

M —— ——.

Bought of Clarke, Johnson, & Co., cotton factors and commission merchants, No. 370 Front street.

Octo.	10	P	1	Nov.	19	C S H–N J	3	Dec.	3	C S H–W R	5	Jan'y	28	C S H–J B	1
		[P]	1			" C & D	3			" J D	1		30	H & W	5
		" X	1			" E a	3			" F & D	1			[R]	1
		J D	2			" W N	2			[P]	1		31	C S H–D W	5
		[c]	4			" S J	1		4	C S H–E J	2			" Mc	1
		W 4 H	8			W M	1			" R R	1			" S S	1
		S I	3		22	C S H–S W	3		6	" —	1			[C]–C	1
		[B]	3			" L D	1		9	" D M	2			[n]	1
		F H	3			" E L	1			" D a	1			H & M	4
								1880.							
Nov.	5	[M]	1			" T L	2	Jan.	27	" H C	1			X	2
		C S H–M	5			[a]	1		2	" N C	4	Feb'y	2	X	1
		[W]	4		24	[P]	2			" H & W	1		3	[P]	1
		C S H–O M	2			H & W	2			C S H–F & B	1			" –R	1
		" G B	1			C S H–L D	1			" A R	1			[C]	1
		" C S	1			" E L	1			" A S	2			" –C	1
		[n] W	1			" T G	3			" A D	1			[A]	2
		[P]	2			" E R	1			" E L	1			No mark.	1
		[c]	3			" J D	2			" D J	2			C S H–J D	1
		[a]	2			[c]	1			" J R	2			" A K	2
		[n]	2			[a]	1			" —	1			" M D	2
		[B]	2			P C	1			[C]	1			" M	2
		[J]	1		26	[c]	2			[O]	1			" S G	1
		[R]	1		27	C S H–T J	3			[T]	2			" W R	1
	6	C S H–C S	1			" J D	1		3	[R]	1			" —	1
		" J R	1			" S S	4			[M]	1			[S]	1

7	" L S	3	
	" B J	4	
	" J R	2	
10	" C S	3	
	" O H	3	
	" J R	2	
	" S	3	
	" B	5	
	H & W	2	
	A D	2	
12	C S H–J C	3	
	" L H	2	
	" B J	1	
18	18 H & M	2	
	C S H–D H	2	
	" C H	3	
	[T]	1	
1880.			
Feb'y 21	C S H–J R	1	
	" S S	1	
	" [c]	2	
	" W	1	
23	C S H	1	
	" S J	2	
	" E L	2	
	" D J	2	
T. L.	" D L	1	
	" G E	2	
	" O U	1	
	[R]	1	

	" J D	3	
	" S	1	
	" J D	5	
	" S	2	
28	" S S	2	
	" J D	4	
	" "	1	
	[J]	2	
29	"	1	
Dec. 1	C S H–S	2	
	" J B	8	
2	[P]	3	
	H & W	2	
	C S H	1	
24	" J D	1	
25	" J B	1	
1880.			
Feb'y —	C S H–L S	1	
	[H]	1	

	[B]	2	
	[W]	3	
	[S]	1	
	[N]	1	
C S H		2	
"	W R	1	
"	C S	3	
"	A R	4	
"	D J	2	
"	C H	1	
"	N W	1	
"	N C	1	
"	W K	1	
"	S J	1	
	[C]	1	
	[P]	1	

11	[H]	2	
16	C S H	1	
"	C S	1	
"	L H	2	
17	" O N	1	
"	V M	2	
18	" —	1	
"	C L	1	
"	S W	1	
"	C & D	3	
20	[H]	1	
C S H–N J		2	
H & W		3	
[P]		1	
[J]		1	

Net proceeds 331 b. c., C. J. & Co.		$15,673 13
" " 82 " Hill, F. & Co.		4,058 73
" " 2 " Estes, D. & Co.		93 50
415 " =		$19,825 36
By cash from Hill, Fontaine & Co.		1,194 27
" sundry cash & cri.		148 15
Total cri. for season 1879 & '80		$21,167 78

Marks of Cotton Rec'd for Ac. C. S. T. Hodges, Season 1881 & '81.

E. E. Clarke, formerly of Clarke, Ely & Co.; M. D. Johnson, formerly of Busby, Johnson & Co.; L. H. Coe, formerly of Busby, Johnson & Co.; C. B. Cla [torn off], formerly of Lloyd, Cla [torn off].

MEMPHIS, TENN., —— —, 18—.

M —— ——.

Bought of Clarke, Johnson & Co., cotton factors and commission merchants, No. 370 Front street.

1880.															
Oct. 5	C S H–L H	3	Nov. 5	C S H–W O	3	Dec. 11	C S H–J C	1	Mar. 4			C S H–J C	1		
"	" T H	2		" P A	1		" S S	3				" J B	1		
6	" J B	2		" R M	2		" D H	1							
	" W K	1		" F C	2		" C D	4		5	"		2		
	" k W	1		" N J	1		" W & C	2			"	W N	1		
	" C L	1		" H B	1		"	2			"	A B	3		
	" E J	1	8	" J C	2	13	" M H	7			"	J B	2		
	" M M	2		" E J	1		" D C	2			"	R F	7		
7	" J D	3		[G]	2	17	" W R	2			"	R W	2		
	" A R	2		[S]	1		" C L	2			"	E J	2		
	" R W	1	9	C S H–J C	2		" E J	2			"	T L	1		
	" J B	1		" J R	3		" W M	2			"	R P	1		
	" E J	1		" J D	1		" B H	2		7	"		1		
8	" A R	5	10	" T H	1		" D G	2			"	J D	2		
	" J B	1		" J D	1	23	" M W	2			"	A W	1		
	[T]	2		" S C	1		" T C	1		8	"	W R	1		
9	C S H	2		" N J	1		" T G	2			"	J H	1		
						1881.									
	" Ar	3	12	" T J	3	Jan'y 10	"	1		9	"		2		
12	" M D	4		" C S	3		" S B	3			"	J B	1		
	" F H	1	20	" E H	1		" D C	1			"	J H	1		
13	"	1		" D W	2		" R R	1		10	"	A R	3		
	[J]	2		" W R	1	Feb'y 3	" N J	4			"	W C	1		
16	C S H–V W	3	23	" "	1		" J R	1			"	H H	1		
21	[M]	3		" M D	2	4	"	1		11	"	T J	3		

		"	W	2			"	S C	2			"	J C	2			"	A R	2
		C S H-A	W	3			"	L D	1			"	F C	2		12	"	F L	2
	22	"	W M	1		24	"		2			"	S Y	1			"	O M	2
		"	J S	2			"	W S	1			"	B C	1			"	W C	1
		"	J R	1			"	D H	1			"	T G	1			"	A R	1
			[R]	3			"	H C	1			"	O B	1			"	F H	1
	23	C S H-S	G	2			"	W R	1			"	J H	3			"	T C	2
		"	H H	1	Dec.	6	"	M H	2			"	J B	2			"	L D	1
		"	[H]	4		7	"		2		5	"	R W	2		14	"	D W	4
			[A] B	1			"	J R	2		11	"		1			"	A G	1
	26	C S H-D	J	4			"	A W	1			"	D J	3		16	"	C S	4
		"	A W	1			"	J S	1					1			"	A C	2
		"	J L	1		8	"	W C	3			"	T H	1			"	D C	1
			[O]	2			"		1		16	C L H-M		1			"	D J	1
Nov.	2	C S H		4			"	F L	7		24		T H	2		17	"		1
		G R		1			"	S L R	1			C S H-I	L	2			"	D K	4
			[H]	1		9	"		1			"	W O	1			D C		1
			[P]	3			"	F H	1	Mar.	2	"	N G	1		23	"		2
		C S H-R	W	1			"	W R	1			"	C L	1			"	S B	2
	3	"		3			"	D K	2			"	J S	1			"	C W	6
		"	T G	2			"	H C	1			"	R	1			"	G M	2
		"	R R	1			"	F L	3			"	T F	1			"	M W	4
		"	C L	1		11	"	N S	1			"	D H	2			"	J R R	2
		"	N J	3			"	W K R	3			"	H J	2			"	J R	3
	4	"	H B	2			"	T L	1			"	F H	2			"	J J C	2
		"	E J	1			"	N W	1			"	P	3			"	D G	1
		"	W M	1			F L		2			"	W N	3		25	"	J R	2
		"	N J	1			[G]		1			"	H B	2			"	J H	2
		"	O M	2			"	R W M	1			"	V W	2			"	S C	3
		"	P A	3			C S H-D	K	2			"	F L	3			"	B C	2
		"	R F	1			"	H C	2		4	"	W R R	2			"	R C	1
																	"	S H	11

Net proceeds 411 b. c.	16,315 54
Other credits on %	16 16
	16,331 70

LIST "C."

Marks of Cotton Rec'd for Ac. C. S. T. Hodges, Season 1881 & '82.

E. E. Clarke, formerly of Clarke, Ely & Co.; M. D. Johnson, formerly of Busby, Johnson & Co.; L. H. Coe, formerly of Busby, Johnson & Co.; C. B. Cla [torn off], formerly of Lloyd, [torn off].

M —— ——.

MEMPHIS, TENN., —— —, 18—.

Bought of Clarke, Johnson & Co., cotton factors and commission merchants, No. 370 Front street.

1881.															
Sept. 10	F H	2	Oct. 1	C S H–J D	2	Oct. 22	C S H	1	Nov. 15	C S H	1				
	C S H	2		" W R	2		" J B	1		" W C	4				
	" H	2		" D W	2		" O B	1		" R R	1				
	" J D	1		" S G	1		" M H	1		" J H	3				
	" E J	1		" C M	1		" N G	1		" J B	1				
	" E H	1	4	"	1		" D J	3		" S R	2				
	" N G	1		" E J	2	Nov. 1	"	1	21	" M	2				
	" C L	1		" C M	1		" F G	1		" W R	2				
	" F H	1		" W R	1		" A G	1		" H K	2				
17	"	1	8	"	1		" N J	4		" P B	2				
	" H H	1		" P B	2		" E L	4		" M W	2				
	" B H	1		" J K	2		" T H	1		" J B	1				
	" P	4	10	" V W	2		" E H	1		" S B	1				
	" C M	3		" M J	2		" B H	1		" H M	1				
	" N M	2		" N & L	2		" R R	1		" E C	1				
	" J H	3		" C M	2		" C L	1	26	"	5				
	" T H	3		" H C	2		" B M	1		" S C	4				
	" W N	2		" B H	1		" H	2		" O P	3				
19	" W K	1	15	"	8		" F D	1		" T J	2				
22	"	3		" J N	2	2	" J	2		" T S	1				
	" R R	1		" J W	2		" D H	2		" V W	1				
	" F D	1		" F C	2	3	"	1		" J B	1				
24	"	6		" G M	1		" F D	1		" J H	1				
	" M H	2		" T L	2		" T H	1		" J R	5				

		"	S G	1		"	T G	1	4	"	W K	1		"	F C	1
		"	A B	1	20	"		1	5	"	J R	2		"	D J	1
		"	H B	2		"	J B	1		"	H B	1		"	J H	1
		"	A W	2		"	I B	1		"	B M	1		"	S & N	2
		"	B C	1		"	C M	1		"	F D	1		"	J D	3
Oct.	1	"		1		"	A M	1	7	"	A B	1				
		"	S J	2	21	"	O M	2	8	"		3				
		"	J H	2		"	O P	2		"	M W	1				
						"	M H	1								

Net proceeds 218 b. c.	$10,267 94
Cash cr't'd on a. c.	753 18
Interest " " "	146 68
Total cre.	11,167 80

Marks Net Proceeds & Advances Made C. S. T. Hodges & Her Estate, Season 1882 *&* '83.

E. E. Clarke, formerly of Clarke, Ely & Co.; M. D. Johnson, formerly of Busby, Johnson & Co.; L. H. Coe, formerly of Busby, Johnson & Co.; C. B. Cla [torn off], formerly of Lloyd [torn off].

MEMPHIS, TENN., —— —, 18—.

M —— ——.

Bought of Clarke, Johnson & Co., cotton factors and commission merchants, No. 370 Front street.

Oct.	2	C H–W H	1	Nov.	2	C H–W R	1	Nov	23	C H–J R	3	Mar.	15	C H	1
		" F H	2			" O C	1			" A W	1		16	" G B	3
	5	"	2		3	" B J	4			" B C	2			" G R	2
	9	" J B	3			" M A	2		24	" "	3			" N J	2
		" J F	1			" H M	1			" A W	2			" D C	1
		" H B	1		4	" J Hall	3		25	" J S	4			" D H	1
		J C	2			" W R	2			" E L	2			" J C	1
	12	C H–C L	1			" H M	1			" "	1			" M B	1
		" N J	1			" H C	1			" S J	1			" G W	1
		" D C	3		7	B H	1			" W H	1		17	" "	3
	13	" B C	3			W H	1			" A R	6			" N G	1
	16	" D L	1			C H–C G	2		28	" T G	2			" J P	1
		" W R	1			" C L	2			" S J	2		19	" B C	8
		" J B	1			" H C	1			" C H	1			" W C	2
		" D H	3			" W H	1		29	" B C	1			" W R	3
	17	" J B	4			" R B	5			" C L	1			" E C	1
	19	" C W H	2			" J R	4			" E C	1		23	" W H	4
		" T H	2			" B H	2			" E L	1			" M D	4
		" W H	2			" J Hall	1	Dec.	4	" A C	4			" S R	2
		" J H M	1		8	" T S	2			" P B X	1			" L D	5
		" R R	1			" J T	2		5	" J B	5		24	" A S	2
		" E E	2			" R J	2			" P B	4			" M M	1
		" T S	2			" R R	1			" H H	2			" W H	1
	24	" A C	2		10	" J M	4			" T H	2			" W C	2

	"	T S	3		"	A W	4		"	E C	2		"	J T	3
	"	T H	1		"	H	2		"	A C	1		"	B J	2
	"	E D	1	11	"	J C	6		"	J C	1		"	W R	1
	"	H H	2	14	"	J P	4	7	"	B	4		"	L D	2
30	"	J H	1		"	J C	2		"	T H	1	29	"	D J	3
	"	L G	1	15	"	D O	3	8	"	D O	3		"	S J	2
	"	W R	1		"	D J	3		"	B	1		"	T G	1
	"	J C	1	16	"	W C	4		"	M A	1		"	H H	1
	"	B C	2		"	J B	2	9	"	I B	3		"	W C	1
31	"	J H	4		"	"	5		"	H M	1	30	"	T L	3
	"	T S	1		"	D J or J P	1		"	E D	1		"	J R	4
	"	E D	1		"	D O or D D	1	11	"	J J H	3		"	H B	2
2	"	M	4	21	"	L D	4		"	N J	1	31	"	G M	1
	"	R J	4		"	S R	1		"	J B	2		"	W C	1
								1883.							
	"	F D	2	22	"	J P	1	Feb. 24		A H	1		"	A S	2
	"	M D	3		"	D J	1	Mar. 15		C H–J H	3	Apr. 2	"	O M	1
	"	T S	3		"	G W	3		"	D H	3		"	D J	1

Cr. by net proceeds of 342 b. c.		14,466 30
Cash		49
Interest on %		157 13
Total c'rs for season 1882–'83		14,672 43
Dr. to balance Ap'l 1, '82	240 31	
" " & m'd'h during season	12,415 33	
" " int. on %	117 04	
Total dr. during season 1882–'83		12,772 68
By balance cr. estate C. S. T. Hodges April 1, '83		$1,899 75

E. & O. E.

405 *Marks and Proceeds of Cotton Received for Ac. A. Hodges During Season* 1881–'82.

MEMPHIS, TENN., —— —, 18—. .

Bought of Geo. Arnold & Co., grocers, cotton factors, and commission merchants and dealers in bagging and ties, sugar, coffee, tea, molasses, syrup, flour, meal, corn, beef, pork, bacon, lard, canned goods, tobacco, and cigars, No. 272 Front street.

Date rec'd.	Marks.	No. bales.
1881.		
Nov. 17	C S H-A B	2
"	" A H	1
"	"	2
Dec. 23	"	2
		7

Dec. 19th, 1881.	N P, 4 b c			173	32
Jan'y 17, 1882.	"	2	"	90	42
May 1.	"	1	"	26	58
		7		290	32

A true copy from the books on file in our office.

GEOR. ARNOLD & CO.,
Per STAFFORD.

406 *Marks and N. P. Cotton Rec'd for Ac. A. Hodges, Season* 1880 & 1881.

MEMPHIS, TENN., —— —, 18—.

Bought of Geo. Arnold & Co., grocers, cotton factors, and commission merchants, bagging and ties, sugar, coffee, tea, molasses, syrup, flour, meal, corn, beef, pork, bacon, lard, canned goods, tobacco, and cigars, No. 272 Front street.

Date rec'd.	Marks.	No. bales.
1880.		
Oct. 19	[R]	3
"	[B]	2
"	[J]	2
"	[R]	1
20	C S H–J C	1
"	" R R	1
"	" J L	1
1881.		
Feb'y 3	" J H	2
"	" J B	2
"	" S G	3
"	" H	1
M'ch 23	" H E L	10
Ap'l 1	" ----	3
		32

N. P, 29 b. c.		1,084 41
" 3 "		72 69
32		

A true copy from the books on file in our office.

GEO. ARNOLD & CO.,
Per STAFFORD.

407 D. T. Porter, G. W. McRae, cotton factors & wholesale grocers.

OFFICE OF PORTER & MACRAE,
MEMPHIS, TENN., —— —, 188–.

12–17–18-1.	1 bale,	C S H	42 16
2–30–18-3.	3 bales,	" P A	101 76
" " '1.	" "	W R	28 95

Ac. C. S. T. Hodges.

1882.				1883.							
Oct.	27	C H–D H	1	Jan'y	23	[H]–A S	2	Ap'l	5	C H–A W	1
		C H	1			" A C	2			" H B	1
		C H–J S	1			" B H	2			" R W	1
	28	" W R	1			" C H	1			" S D	1
		" S J	1			" J S	1			" S L	1
		" J S	1			" C W	1			" A J	1
		" D L	3			" R T	1			" H B	1
		" T S	3		26	" E S	5			" D S	1
		" J S	1			" W R	2			" P B	3
		" D H	1			" C H	1			" J B	3
		" T H	1			" R J	1			" E L	1
Nov.	11	" N W	1			" C G	2			" A W	1
Dec.	2	" F O	3			" J S	1			" H C	2
		" R N	2		27	" J C / B H	1			" C G	1
		" J J C	3			" H B / H F	1			" D S	1
		" F O	2			" R J / G W	1			" J G	1
	12	" N J J	5			" C H	1			" J B	1
		" M C	1			" C G W R / A S	1			" C G	1
		" J S	4	M'ch	29	" M D	1			" W R	1
		" A W	1	Ap'l	2	" C H / R R	1			" W	1
		" J J H	1			" B J	1			" A C	2
	13	" D H	3			" G M	1			" S B	2
		" H H	2			" S J	1			" E D	1
		" D J J	1			" C H–C B	5			" F H	1
	15	" J J	5			" H H	3			" C G	2
		" D 2	1			" S L	1			" F H	1
		" B J	1			" O M	3			" H B	1
		" F	1			" R N	2			" J B	1

		" D 2	2			" H	2			" C G	1
		" H C	1			" F C	1			" O W	3
		" H H	1			" S L	1		14	" G M	2
						" W R	1			" J L	1
	1883.										
Jan'y	11	J S	2			" C G	1		27	" G B	1
		" P H	3			" G M	3			" C H	
		R J	1			" B J	1				
		C L	1		5	" J C	1				
	20	[H]-H B	2			" J H	1				
		" G B	2			" O L	1				
		" R J	2			" A J	2				
		" H H	1			" S J	1				
		" B H	1			" P J	2				
		" T S	1			" T H	1				
		" H W	1			" C G	1				
						" J H					

Total, 186 b. c.

Cr.

By net proceeds of 100 b. c. sold from Sept., 1882, to April 30th, 1883 ..... $4,124 98

Dr.

To am't of % of money and plantation supplies from Sept. 1, '82, to Ap'l 30, '83 ..... $9,765 90

409 Endorsed: 376 equity. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. v.* Asa Hodges *et al.* Schedule "A" referred to in answer to X interrogatory 31, Hodge's deposition, and last X interrogatory to Clarke's deposition. Filed February 1, 1884. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

410 In Circuit Court of U. S. for the Western District of Tennessee, at Memphis, Tenn.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

MEMPHIS, TENN., *Sept. 6th*, 1883.

To Asa Hodges or Weatherford & Estes, his attorneys:

Take notice that we have filed this day interrogatories upon which to take the deposition of Mrs. Mary J. Phillips, at Lynchburg, Va., under rule 67 of practice of equity courts of the United States, and you can cross-interrogate by interrogatories within the time prescribed by law if you so desire.

HUMES & POSTON,
Sol's for Anna E. Cameron & Others, Compl'ts.

Endorsed: No. 376. Equity. United States circuit court at Memphis, Tenn. Anna A. Cameron and others *vs.* Asa Hodges
411 *et al.* Notice to defendants of filing of interrogatories for Mary J. Phillips under rule 67 equity practice in U. S. courts. Filed Sept. 6th, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C. At Memphis, Tenn., Sept. 7, 1883, I served certified copy of within notice on L. H. Estes, Jr., Esq., of the firm of Weatherford & Estis. M. T. Williamson, U. S. marshal, by W. H. Neal, deputy. Returned and filed Sept. 7, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

412 In the U. S. Circuit Court at Memphis, Tennessee.

A. E. CAMERON *et al. vs.* ASA HODGES *et al.*

The deposition of Robert L. Monroe, taken August 7th, 1883, at the office of the clerk of the circuit court, at Augusta, Arkansas, pursuant to notice, there being present W. K. Poston, attorney for plaintiff, and the defendant, Asa Hodges, and his attorney, W. G. Weatherford.

The said witness, being first duly sworn, deposed as follows:

Q. 1. State name, age, and plage of residence.

A. R. L. Monroe; 24 years of age, and residence Woodruff county, Arkansas.

Q. 2. Are you acquainted with Asa Hodges, his wife, C. S. T. Hodges, and were you acquainted with Fleming H. Price in his lifetime; if so, when and where did you know them?

A. I am acquainted with the parties mentioned; I knew them at their homes in Crittenden county, Ark.

Q. 3. State what, if anything, you know as to Fleming H. Price owning or acquiring title from Asa Hodges and his wife to
413 the plantation in Crittenden county, Arkansas, known as the Arnold place; state all that you know about it.

A. Know nothing more than I was asked to sign a deed, as a witness, drawn up by Judge Peters, from Asa Hodges to Fleming H. Price. Judge Hodges said at the time that it was a deed from him and his wife to Fleming H. Price for the place he, Price, levied on. After signing the deed as a witness I handed it back to Judge Hodges and he handed it to Fleming H. Price. This occurred at the gin near Judge Hodges' residence, in Crittenden county, Arkansas; it occurred some time in the month of January, 1880; I know this, for I was on the place from the 5th of January, 1880, until some time in March.

Q. 4. Whose names were signed to the deed at the time you were called to witness it?

A. As well as I can remember, the names of Asa Hodges and wife were signed to the deed.

Q. 5. What were you doing on the place at the time this occurred?

414 A. I was employed by Judge Hodges to generally superintend the hands and keep up the business of the plantation.

Q. 6. How long had you known these parties before witnessing the deed?

A. I only knew them about two or three months before that time.

Q. 7. State in whose possession you last saw the deed you had witnessed.

A. In the possession of Fleming H. Price.

Q. 8. State what, if anything, was said by Judge Hodges at that time in reference to the terms of the sale or the payment of the purchase-money.

A. At the time I signed the deed there was nothing said in reference to payments.

Q. 9. State what, if anything was said then or at any time, either before or afterwards, by Judge Hodges in regard to Fleming H. Price having paid or paying the purchase-money for the place he was living on.

A. There was nothing said as to his having paid or paying,
415 but in conversation with Judge Hodges he said that he, Price, would probably pay for the place that year.

Q. 10. What year did he refer to?

A. I suppose he meant the year 1880.

Q. 11. Was anything said by Judge Hodges in reference to said Price having paid part or nearly all of the consideration for said purchase?

A. Nothing direct, but I inferred from the conversation with Judge Hodges that he had paid a part.

Q. 12. State how said Price was to pay for said plantation; out of what means or resources?

A. I know nothing in regard to how the payments were to be made.

Q. 13. Did you ever hear *they* say then or at any other time, before or afterwards, out of what means or resources said Price was paying or to pay said consideration?

A. I do not remember to have ever heard them say anything in regard to it?

416 Q. 14. By what name was the place on which Fleming H. Price at that time lived called or known?

A. I have heard people call it the Arnold place, and the negroes on the place called it the Price place. I understood it to be Price's place; it was a different place from the one on which Hodges and wife lived.

Q. 15. State, if you know, what crops were raised by Fleming H. Price on the Arnold place the year 1879. If cotton, when was it ginned; how much of it was there, and what became of it?

A. I knew that he raised some cotton, because I ginned it, the latter part of his crop, at Judge Hodges' gin. I do not recollect how much there was of it. As well as I could understand, it was shipped to Clark & Johnson, Memphis, Tenn. I think Judge Hodges shipped it. It was all marked [P]. I was instructed by Judge Hodges to mark all the cotton from Price's with that mark, and did so.

417 The cotton that belonged to Judge Hodges and Mrs. Hodges was marked C. S. T. H.

Q. 16. Are you able to state approximately how many bales you received from Price's place?

A. I could not state exactly, but suppose between fifty and seventy-five bales.

Q. 17. Do you know *hamy* or about how many acres of land were cultivated in cotton on Price's place in the year 1879?

A. I could not state how many.

Q. 18. Can you state what kind of a farmer Fleming H. Price was—thrifty, energetic, or otherwise?

A. I always regarded him as a good farmer.

Q. 19. After getting Judge Hodges' employment in the spring of 1880 did you remain in Crittenden county; if so, how long?

A. I did; about one week.

Q. 20. What part or agency was taken by Judge Hodges in managing and superintending the crops and business of his wife while you were living there?

418 A. He exercised his own judgment about the entire management and did manage it altogether.

Defendants' counsel made exception to all the above and every part of it for irrelevancy, incompetency, because it is leading, and because the acts of Judge Hodges could not bind his wife..

Cross-examination:

Q. How many places did Judge Hodges or his wife control at that time?

A. I understood that they controlled the home place and the

Peters place; the Peters place was about three miles northeast of the home place, as well as I remember. I do not know whether it joined the Price place or not.

Q. Did not Price own or had he not owned the Peters place?

A. I do not know that he did. I understood that it belonged to Mrs. Hodges.

Q. Did you read the deed referred to above or hear it read?

A. I did not.

419 Q. Whose signature did you witness and who else witnessed it?

A. No one witnessed it. I witnessed the signatures of Hodges and wife.

Q. Did you see either of them sign it?

A. I did not.

Q. What were you doing when you stopped to sign it?

A. I was having some hands moving some cotton seed.

Q. How far were you from the dwelling-house when you signed it?

A. I was about one hundred and fifty yards.

Q. What time of day was it?

A. As well as I can remember, it was in the morning about 10 o'clock.

Q. Where did you lodge and take your meals at that time?

A. At the residence of Judge Hodges.

Q. Who brought ink and pen and where from for you to sign?

A. Judge Hodges brought it from the house.

Q. What was Price doing at the time?

A. He was just standing round doing nothing.

420 Q. What did he say when the deed was handed him?

A. The machinery was running and I could not hear what was said; he and Judge Hodges had a short talk and then walked off.

Q. Then it was a matter you paid very little attention to?

A. Yes, sir.

Q. Did you leave Judge Hodges of your own free will or did he discharge you?

A. It would be hard to answer; we differed as to amount of salary.

Q. To whom did you give the information regarding the witnessing of the deed?

A. To a Mr. Seal, who was then living with Judge Hodges; it was about the last of August, 1882.

Q. Did you ever talk to Maj. Crittenden, of Crittenden county, in reference to the matter?

A. Yes; we had a conversation at Little Rock about it.

Q. Did you not tell him there that you would be the best witness Hodges could get?

A. No, sir; I did not.

421 Q. Did you not also tell him that the heirs of Price had no right to the Arnold place?

A. I did not.

Q. Did you not also tell him that Price had told you that he had refused a deed to the place and did not want it?

A. I never told him anything of the kind.

Re-examination.

Q. Are you a white man or a colored man?

A. I am a white man.

Q. Of what kin or relationship are you to Asa Hodges, his wife, C. S. T. Hodges; Fleming H. Price, or his heirs?

A. None whatever.

Q. What, if any, interest have you in this lawsuit?

A. None at all.

And further this deponent sayeth not.

R. L. MONROE.

STATE OF ARKANSAS, *County of Woodruff*, } *ss:*

I, Alex. W. Jones, clerk of the circuit court of Woodruff
422 county, Arkansas, do hereby certify that the foregoing deposition of R. L. Monroe was taken before me, at my office, in Augusta, Arkansas; that said witness, before deposing, was duly sworn by me to depose the truth, the whole truth, and nothing but the truth; that I wrote the entire deposition, both questions and answers; that I am not interested in any way in the said suit, nor of kin or counsel to either party, and that the said deposition was not altered after being taken, nor out of my possession until it was deposited by me, postage prepaid, in *in* the post office at Augusta, Ark., addressed to the clerk of the United States court, Memphis, Tennessee.

In testimony whereof I hereunto set my hand and affix the seal of said court, at my office, this 7th day of September, 1883.

[L. S.] ALEX. W. JONES,
Clerk of Circuit Court.

423 Endorsed: No. 376. Eq. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* Deposition of Ro. L. Monroe. Filed Sept. 10th, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

424 *Deposition of Jas. B. Cartright, Taken by Consent.*

U. S. Court, Memphis, Tenn.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

1. Where do you live, and how, if at all, are you related to defendant, Asa Hodges?

Ans. I live in Shelby county, Tennessee, and am married to his niece.

2. Did you know Fleming H. Price in life; if so, for how long a time?

Ans. I knew him for about four years.

3. Were you often with him at his home in Crittenden county, Arkansas?

Ans. I was from time to time; spent several nights there.

4. Did you during those times hear him speak of the ownership of the property where he lived or how he was attending to it? If so, please state what he said.

Ans. I never heard him say positively who the land be-
425 longed to, but he spoke of everything as belonging to Judge Hodges and being controlled by him, and as if he was doing business for him.

5. Did he claim to own any property then; if so, what?

Ans. He claimed to own a horse, the only thing that I heard his speak of as his own.

6. Were you present during his late illness or at his death?

Ans. I was there in the evening, about 5 o'clock, before he died; staid about an hour; left and went to my place; returned at 9½ or 10 at night; spent the night; returned to my place about daylight, and came back about 9 a. m., and he was then dead.

7. Did you see defendant, Hodges, there while you were present?

Ans. He was there a few minutes after Price died, and left.

8. Did he take away anything when he went?

Ans. Not that I know of.

426 9. While there did you hear anything said of Price's having made a will or see or hear anything of one?

Ans. Not while I was there.

10. Did you know Mrs. Cameron, one of complainants in this suit; if so, did you see her soon after Price died, and where?

Ans. I had met her, and saw her at my mother-in-law's a short time afterward—a week, I suppose; that was in Shelby county.

11. Did she speak of having talked with defendant, Hodges, about the Arnold place at that time?

Ans. She did.

12. Did she state whether he said anything about letting her have the place; if so, why did she not take it?

Ans. She did, and said that he had proposed to let her have it if she would pay a debt of $15,000 or $2,000 that was due upon
427 it, and she and her husband said that they could not raise that amount of money, and that was the reason why they did not take it.

13. Her husband was present at this interview, was he not?

Ans. Yes, sir.

Cross-examination:

X Q. 1. How far did you live from Price?

Ans. I lived in Shelby county, but had a place in Crittenden county, and was there frequently to collect rents and look after the place.

X Q. 2. Was or not Price living on the Arnold place, keeping house, at date of his death?

Ans. He was.

X Q. 3. Were you not at the house about 9 o'clock p. m. the night of his death?

Ans. I was.

X Q. 4. Did he not send for the ac. of Murray and O K it in your presence?

Ans. He never sent while I was there, but Murray came while I was there with his ac.

428 X Q. 5. What was said about that ac. while you were there?

Ans. It was presented and settled, but what I understood was the matter was satisfactorily settled; I don't know how.

X Q. 6. Now, Mr. Cartright, did not Price say to Murray that that ac. would be paid by his sister and that it was all he owed in the world?

Ans. No, sir; I did not hear that. I won't say that it did not occur or that it did, as I was not in the room all the time.

X Q. 7. When did the conversation as to Price's property or for whom he was acting take place—in 1876, 1877, 1878, 1879, or 1880?

Ans. He spoke several times about it, but never said particularly who the property belonged to, but spoke of it as Judge Hodges controlling everything; the first time I was over there was in 1879.

X Q. 8. How long had Price been living there, keeping house?

Ans. Ever since I first went there.

429 X Q. 9. Was or not the place well stocked with horses, mules, and farming implements?

Ans. There was a good many mules, and I don't know about the farming implement-, but saw as many as 2 wagons and probably more.

X Q. 10. What sort of a crop had he the year of his death?

Ans. He had a very good crop. I heard him say that.

X Q. 11. When was the conversation you have detailed as having occurred take place and — was present beside yourself?

Ans. At Mrs. E. K. Townsend's, near Bray station; there was no one present all the time; they were going in and out all the time; my uncle-in-law, my wife, sister-in-law, and W. H. Moore, of the Bluff City Ins. Co., of Memphis.

X Q. 12. Did not Mr. Cameron in that interview say that Price owed the Hodges nothing, and that they refused the proposition of Hodges, or words to that effect?

430 Ans. I don't remember that they did or did not. Mr. Cameron said Judge Hodges knew he could not raise the money to pay it.

X Q. 13. Did they — anything to you about any other interviews between Hodges and wife and themselves?

Ans. They talked so much about it while they were there that I could — tell all they did say about it.

X Q. 14. How did Price come to talk about the property or its ownership?

Ans. He never talked about the ownership of it; he just talked about the management of it, and talked as if his uncle Asa con-

trolled everything. As to his talking about the ownership of the property with me we never did such a thing.

X Q. 15. Do you or not know the general character of Asa Hodges amongst his neighborhood in which he lives for integrity and veracity?

431 Ans. He is like everybody else. He has parties who live near him who think he is honest and many others who think he is dishonest, and as a neighbor he stood well with every one; this is what I have heard people say. This is all I can say about his general character.

X Q. 16. Do you know Mr. W. D. Hardin, formerly sheriff of Crittenden county?

Ans. I know him when I see him.

X Q. 17. Do you know his general character for truth and veracity amongst his neighbors and acquaintances?

Ans. I know very little about Mr. Hardin in any way. I don't know how he stands in Crittenden county. He is just like Judge Hodges; some say he is good and some bad, and I know nothing of him personally; never had any dealings with him.

Re-examined:

1. Who is present at the taking of this deposition?

432 Ans. Mr. Poston and Mr. Weatherford.

2. In referring to the character of Mr. Hodges and Mr. Hardin do you mean that some regard them as sharp, shrewd men, who deal skilfully, or how much does your deposition imply?

Ans. Some regard them as good men and some bad.

J. B. CARTWRIGHT.

Oath waived.

HUMES & POSTON, *Sol's.*

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et al.* Deposition of J. B. Cartwright. Filed Oct. 5, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

433 *Answer of W. Y. C. Humes and D. H. Poston, Trustees.*

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

These defendants, saving and reserving, &c., &c., say that as trustees they have no knowledge of the deed to Price or of the existence or destruction of the will referred to in the bill and cannot admit their truth; that in accepting the trust deed from Mrs. C. S. T. Hodges and her husband they had no reason to doubt that she owned the property therein conveyed, and that the indebtedness therein seemed and the trust deed were *bona fide* and they accepted and acted accordingly.

That afterward the first note was paid and their codefendant, C. B. Clark, with a view to the purchase of the remaining two be-

fore their maturity, approached defendant Poston and en-
434 quired if the notes were due and the trust deed valid and binding, and was answered by him in the affirmative, and that the investment was a safe one, upon which he made the purchase of said notes, and they assigned them to him and endorsed the fact upon the trust deed. They knew him, therefore, to be a holder for value, and if said notes or either of them have been paid they, as such trustees, have not been notified of the fact. They, as such trustees, have no authority to release any security for said notes and object to any order by which their discretion as such may be interfered with.

Without admitting any matter that is material in this cause and having answered as fully as they deem it material that they should, they pray to be hence dismissed with costs.

WEATHERFORD & ESTES,
For Def'ts.

435 Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. A. E. Cameron *et al. vs.* Asa Hodges *et al.* Answer of Humes & Poston, trustees. Filed Oct. 5, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

436 In Circuit Court of the United States for the Western District of Tennessee, at Memphis.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

Interrogatories and cross-interrogatories to be propounded to Mrs. Mary J. Phillips, witness for complainants in the above-entitled cause, whose deposition it is agreed may be taken by or before any judge or clerk of a court of record, notary public, or U. S. commissioner, all formalities being waived and only exceptions for competency and relevancy being reserved.

HUMES & POSTON,
Sol's for Complainants.
WEATHERFORD & ESTES,
Sol's for Defendants.

Answers of M. J. Phillips to interrogatories propounded by Cameron and wife and cross-interrogatories by defendant, Asa Hodges.

Interrogatory 1st by Humes & Poston, for complainants. Please state your age, residence, and occupation and your relationship to the complainants, J. D. Cameron and wife, and the defendant,
437 Asa Hodges, and how long you have known them and each of them.

Answer to 1st int. Cameron's wife is my niece; defendant my brother; have known Cameron for twenty years.

Interrogatory 2d by same. Where were you residing during the months of November and October, 1880?

Ans. 2 in. Price was my nephew, and knew him well.

Interrogatory 3d by same. Did you or not ever know one F. H. Price, who resided in 1880 in Crittenden Co., Ark.; if yea, what relationship, if any, existed between you and him and Cameron and wife and Asa Hodges and him?

(Ans. to int. 3 left out.)

Interrogatory 4th by same. Is or not said F. H. Price dead; if yea, when and where did he die?

438 Answer 4th interrogatory. He died in Crittenden county, Arkansas.

Int. 5th. Do you or not remember from whom you got the news of said F. H. Price's death, who communicated it to you, and how long after it occurred?

Ans. 5th int. I think Mrs. C. Hodges communicated his death to me the same day he died or early the next morning.

Int. 6th. How long after his death was it that Mr. and Mrs. Cameron reached Memphis, and did you or not see them upon their arrival?

Ans. to 6th int. The day after Price died they reached Memphis and came to my house.

Int. 7th. State, if you know, how they got the news of his death, by whom communicated, and by what means and how you know the facts?

Ans. 7th. They got the news by telegram, so they informed me.

Int. 8th. If you should say in answer to the above that the news was communicated by telegram please state when it was

439 written, when sent, and giving the hour of the day of the writing of the dispatch, and of its being sent, and by whom, and how you know the facts.

Ans. 8th. Sent by Mrs. Hodges; don't recollect the day or hour; don't know who wrote it; Mrs. Hodges told me she wrote it.

Int. 9th. Is it or not the fact that Mrs. C. S. T. Hodges told you the dispatch was received one day at 4 p. m. and that she only sent it the next day at 10 o'clock the same morning that F. H. Price died; if not, state exactly what she did say, and state any reasons, if any, she gave for not having sent it earlier.

Ans. 9. She told me it was sent too late for her to send it the day she got it and sent it the next morning.

Int. 10. Upon the arrival of Cameron and wife at your house, if you should say they came there, did they remain there that

440 night or go elsewhere; if yea, where and by whose direction, if any?

Ans. 10. They first came to my house and then went up to Mrs. Hodges', and soon after returned and staid all night with me.

Int. 11. Do you know of any arrangements having been made to bury F. H. Price in Elmwood cemetery, at Memphis, and did or not defendant Hodges or his wife ever say to you that the body would be interred at Elmwood cemetery; if yea, which one so told you?

Ans. 11. There was no arrangement made to bury F. H. Price. Mr. Cameron and wife talked about it, and we did not feel it necessary to make any arrangement until the body came. Defendant

Hodges and wife never had any talk with me on the subject His wife may have said to me Mr. Hodges intended to send the body over to Memphis to be buried in Elmwood, where Mr. Price
441 had requested to be buried.

Int. 12. Do you know of any arrangements having been made by D. Cameron and wife for such burial? If yea, state what was done.

Ans. 12. Mr. Cameron and wife could do nothing until they heard from the corpse is what I thought.

Int. 13. If, in answer to the above, you should state they did make arrangements state whether or not a burial permit was obtained and the ferry-boat was rented by them and others, and what other, persons to meet the remains.

Ans. 13. Mr. Cameron talked about getting a permit to bring the body to Memphis, but I don't remember of seeing it.

Int. 14. What, if anything, do you know of any will having been made by F. H. Price? Was the matter discussed; if yea, by and between whom, and what was said, and what, if anything, — defendant Hodges and wife about it?

442 Ans. 14. I know nothing of a will of F. Price's. There was a good deal said about it, but I never saw any one that saw the will.

Int. 15. What, if anything, was said and by whom as to said F. H. Price's desire that his sister, Mrs. Cameron, should be sent for, and that she should have his papers and effects, &c.? State all that was said by Asa Hodges or any one in their or either of their presence.

Ans. 15. I heard nothing said by defendant, Mr. Hodges, nor by Mrs. Hodges to me on the subject.

Int. 16. Did you or not ever have or hear any conversation with Mrs. C. S. T. Hodges in reference to F. H. Price's ownership of the "Arnold place," farming implements, stock, &c., thereon? If yea, state what was said and when the conversation occurred;
443 how long before or after his death, and who it was who made the statements.

Ans. 16. I never heard the defendant say anything about Mr. Price owning the Arnold place. His wife said when the balance of the St. John debt was paid by Fleming she intended to make a deed to the Arnold place. This was said several times before his death; had no conversation with her about it after his death.

Int. 17. Did you or not ever hear or know of F. H. Price having made a written will? If yea, state all you know about it and who wrote or is reported to have written it and what became of it.

Ans. 17. I know nothing about the matter; never saw any one that saw the will, and could tell nothing about it.

Int. 18. Was or not F. H. Price living on the Arnold place, cultivating it, at date of his death and did he or not claim to own it with all the stock, wagons, &c., thereon?

444 Ans. 18. He was living on the Arnold place, but how their matters stood I do not know; I never heard either say.

Int. 19. If you — of any other matter- of interest to the cause of

complainants state them as fully as if thereunto specifically interrogated.

Ans. 19. I know nothing about the matter; could tell nothing more than I have said.

Int. 20. Do you or not know Wm. Hardin, of Crittenden Co., Arkansas, who was formerly sheriff of that county and who is the administrator of the estate of F. H. Price, deceased; if yea, for what length of time have you known him and how intimately?

Ans. 20. I know Mr. Hardin; do not know of his being administrator of F. Price's estate; have known him several years; he was a good friend of Price's, as I always thought and have heard
445 him express himself.

Int. 21. Do you or not know what the general reputation of said Hardin is amongst his neighbors and acquaintances for truth and integrity; if yea, is such character good or bad?

Ans. 21. I know nothing about Mr. Hardin's reputation among his neighbors; never heard any one in Arkansas express themselves about him.

Int. 22. From your knowledge of such character would you or not believe him on oath as a witness in a court of justice?

Ans. 22. From my business transactions with Mr. Hardin I would be compelled to believe him on oath.

HUMES & POSTON,
For Anna E. Cameron et al.

Cross-examination of Mrs. MARY J. PHILLIPS, all exceptions reserved for incompetency, irrelevancy, and hearsay, &c.:

446 1st X Int. If you state that defendant Hodges or his wife told you that the remains of Mr. Price were to have been buried in Elmwood please state, also, the reasons given why it was not done.

Answer to 1st cross int. Defendant and wife told me Price would be buried in Elmwood, and the reason it was not done — there was no permit sent with the coffin, and that was my understanding by all parties.

2 X Int. If you say that complainant Cameron made arrangements for the burial please state just what he did. Where were the burial services to take place, what minister did he engage, did you see the burial permit, did he get a permit or only say that he would have done so if he had known that it was required?

Ans. to 2 — 3 cross. I have answered the facts in my chief examination.

447 3 X Int. If you have not stated in your examination-in-chief what part of your testimony is based upon your own knowledge please do so now; if any is hearsay give the part told by each party separately, and state all that that party said on the subject.

Answer to 2 — 3 *cross.*

4 X Int. If you say you ever heard Mrs. Hodges speak of Price owning the "Arnold place" state whether it was not coupled with

the wish that he could take it and pay off the St. John's mortgage upon it. What did she say regarding the payment for the place?

(Ans. to 4th X int. omitted.)

5 X Int. What was Price's pecuniary condition for some years prior to his death? Was he not heavily involved, and did he — go into bankruptcy? Just before he did so did you not have a large suit against him, and sell valuable real estate; if so, who purchased and who paid for it?

448 Ans. 5 X Int. It was my understand- that F. Price took the bankrup- law not a *grate* while before his death. I had a judgment against him and had part of his real estate sold to pay off the judgment. Mrs. Hodges bough- it and paid.

6 X Int. Was he provident and saving of his means, or liberal, generous, and reckless with them? What were his habits the two or three years before his death—sober, steady, and businesslike, or was he given to dissipation?

(No answer to 6 X int.)

7 X Int. What source of income had he after he became a bankrupt, and in what way was he better able to pay for a plantation then than prior thereto?

(No answer to 7 X int.)

8 X Int. Did not Mrs. Cameron submit to you the letter she wrote to defendant Hodges, at Marion, a few days after Price's death, in which the indebtedness for the Arnold place was conceded? If so, state all she said about it.

449 (No answer to X int. 8.)

9 X Int. Did not Mr. Cameron state, after he returned from Crittenden Co. (just after Price died), that defendant Hodges had refused to give an obligation for title to that place?

Ans. 9 X Int. When Mr. Cameron and wife returned from Mrs. Hodges' they told me that defend- and wife was willing that F. Price's sisters should have the Arnold place if they would pay the bal*l*ans- of the St. John debt, but they said they could not do it. After Mr. Cameron returned from Arkansas he said defend- would not give him a bond for the place till the bal*l*ance of the St. John's debt was paid. I said to them they ough- to pay it, as the place was worth $50,000, fifty thousand dollars.

10 X Int. Some time after Price died did you not hear Mr. Cameron and wife or both say that the reason they did not get
450 the Arnold place was that they were unable to pay off the mortgage due upon it?

(No answer to X int. 10.)

11 X Int. Which of Mr. Hardin's neighbors and acquaintances did you ever hear discuss his reputation for truth as a witness, where did they live, and when was it? Is your testimony based upon what they said or upon your personal knowledge and opinion of him?

WEATHERFORD & ESTES,
For Defendants.

Ans. 11 X Int. I have answered this in my chief examination.
M. J. PHILLIPS.

Oct. th- 2, 1883.

STATE OF VIRGINIA,
City of Lynchburg, } *To wit:*

I, J. B. Nowlin, a notary public for the city aforesaid, in the State of Virginia, do certify that Mary J. Phillips, whose name is signed to the writing hereto attached, personally appeared before me and made oath that the same is correct, to the best of her knowledge and belief.

451 Given under my hand and seal of office, at Lynchburg, Virginia, this the 2d day of August, 1883.

[SEAL.] J. B. NOWLIN, *N. P.*

Endorsed: No. 376 E. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et als. vs.* Asa Hodges *et als.* Deposition of Mary J. Phillips. Filed Oct. 8, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

452 In the U. S. Circuit Court, at Memphis, Tennessee.

ANNA E. CAMERON and Others *vs.* ASA HODGES and Others.

The deposition of J. F. DOWNY, taken Sept. 25th, 1883, at law office of Poston & Poston, Memphis, Tennessee, pursuant to notice.

Present: W. K. Poston, sol'r for compl't-, and the defendant, Asa Hodges & person, and also def'ts' att'y, W. G. Weatherford.

And the said witness, being first duly sworn, deposes & says:

Q. 1st. State your name, age, and place of residence.

Ans. Joseph F. Dowdy; age, 68; residence, Memphis, Tenn.

Q. 2d. Are you acquainted with the defendant, Asa Hodges; if so, how long have you known him? Were you acquainted with his wife, Caroline S. T. Hodges, in her lifetime; if so, how long did you know her?

453 Ans. I have known him, Asa Hodges, about thirty years; I knew his wife, Caroline S. T. Hodges, about twenty years.

Q. 3. Did you know Fleming H. Price in his lifetime; if so, how long did you know him?

Ans. I knew him intimately since the war.

Q. 4. Do you know plaintiffs, Anna E. Cameron and her husband, J. D. Cameron?

Ans. Yes; I have a slight acquaintance with them.

Q. 5. State what, if anything, you knew or have heard defendant, Asa Hodges, or his wife say in regard to Fleming H. Price having made a will shortly before his death.

Ans. I heard his wife, Mrs. C. S. T. Hodges, say, a few days after the death of Fleming H. Price, that he had made a will. I had an office in Memphis opposite the landing place of the boat that travels

from Mound City to Memphis. One morning I met Mrs. Hodges on the street opposite my office. She asked me if I had heard
454 of Fleming Price's death. I replied no. She then told me that he had died the week before. She told me that he had been much troubled about his papers & getting his will made, but at last he got his will made & his papers all right and died satisfied. She told me that his will left all his property to his sister, Mrs. Cameron. I remarked that he ought to have done that, as I understood that his sister had raised and taken care of him, and she said, "Yes." Mrs. Hodges also told me in that conversation that Mrs. Cameron had been telegraphed for, but had not come. She also told me in that conversation that she was there waiting for the corpse to come over from Marion, Ark. She also told me that Fleming Price had expressed a wish to be burried in Tennessee & did not want to be burried in Ark. I also met Mrs. C. S. T. Hodges & Mrs. Cameron & her husband the next morning at the same place. They said that they were there to meet the boat with the corpse, as
455 it did not come the day before, and they remained there that morning until 12 o'clock or about that time.

Q. 6. Do you know the place in Crittenden county known & called the Arnold place?

Ans. Yes; I have been on it; they called it the Arnold place.

Q. 7. Do you know the place on which defendant, Asa Hodges, & his wife lived called the Home place?

Ans. It's on the Military road. I have been there frequently.

Int. 8. State what, if anything, you know in regard to defendant, Asa Hodges, managing the business.

Ans. I know that he did so. I know, also, that she instructed me to transact business with him as her agent. I have her letters to that effect.

Q. 9. During what period of time did he so act as her agent in transacting her business?

Ans. I know he did with me for eight or ten years—up to 1875 or 1876. I did a great deal of business with them; it was all done in her name. Asa Hodges transacted it principally for her.
456 Q. 10. Do you know anything about the state of accounts between Asa Hodges & his wife on one side & Fleming Price on the other?

Ans. I only know what Fleming Price told me.

Q. 11. What did he tell you, & when was it?

Ans. About 1876, I think; he told me that his uncle, Asa Hodges, owed him a large amount; that he had been overseeing for him for ten or twelve years at $1,000.00 or $1,200.00 a year, & that he had never paid him. I am not certain which amount it was, but I think it was $1,200.00.

Cross-examination:

1 X. What kind of business did you do for them, and when did it cease?

Ans. Generally, commission business—selling cotton, &c. I quit about '76 or '7; don't recollect exactly.

2 X. Are you still in the commission business; if not, when did you quit?

Ans. No, sir. I quit in '79; became diseased; not able to attend to business.

457 3 X. Were you or not the commission merchant of Fleming Price; did you sell all his cotton, & when did you quit as his merchant?

Ans. I suppose I was his merchant. I sold some cotton for him; don't know whether I sold it all for him or not. I don't know when I quit; just before I quit business; only sold for him one year; don't recollect how much I sold for him; it was what he made on the Arnold place, as I understood, that year; don't know where he made it.

4 X. Did you not do a large business, as commission merchant, for defendant, Asa Hodges, in his own name?

Ans. No, sir; not a large business; I did some—long ago; can't tell how much; my books will show. I think I sold cotton for him one or two years; balance of the time was in her name.

5 X. Did you not take from said Hodges, in part pay of what he owed you, the notes of Fleming Price to the amount
458 of $10,000 or $20,000?

Ans. I held them as collateral security; $15,000.

6 X. In what year was that?

Ans. I don't recollect; my memory is so bad from disease; I think it was in '73 or '75; somewhere along there.

7 X. Did you not afterward assign the same notes to Mrs. C. S. T. Hodges in payment of money due her from you?

Ans. No, sir; I did assign them to her, however, on certain conditions.

8 X. Did not those notes become the property of Mrs. Hodges and were you not released from that amount of indebtedness to her?

Ans. Oh, well, yes; I assigned them over to her. No, sir; I was not released from that amount; I did not owe her anything; I might have owed her a small amount; the books will show.

9 X. Did she not bring suit upon them and obtain a decree
459 against Price and sell the Arnold place in satisfaction of it?

Ans. I don't know anything about it.

10 X. What became of those notes?

Ans. I don't know; why should I?

11 X. You parted with their ownership voluntarily, did you not?

Ans. Of course I did voluntarily. I held them for what Asa Hodges owed me. I gave them to Mrs. Hodges on condition that she was to pay me $5,000; that was in suit in Little Rock, and have never got a cent of it yet.

12 X. Did not Fleming Price owe you several thousand dollars about the same time, and did you not sue him upon it and sell his lands?

Ans. Yes; he owed me several thousand dollars. Asa Hodges had sold him some tax lands and I accepted for Price and had to pay. I sued Price and Hodges, and the supreme court gave me a

third of the land. Asa Hodges defended it and claimed the title himself.

460 13 X. Did Price purchase these lands while he was overseeing for Hodges, or not?

Ans. Yes; I suppose he did if it was a purchase.

14 X. Did he cultivate the Arnold place while he was overseeing for Hodges?

Ans. I don't know whether he did or not.

15 X. Where did he live at the time he cultivated it?

Ans. I don't know whether he cultivated it or not, and don't know where he lived at the time.

16 X. What land did he cultivate when he shipped his cotton to you?

Ans. I believe it was the Arnold place, but am not certain.

17 X. Did not Price become a bankrupt and was he not discharged after the transactions you mention?

Ans. Well, I don't know; I understood he did.

18 X. Are you and defendant Hodges on friendly terms or not?

461 Ans. No, sir.

19 X. Have you not been quite unfriendly for some years?

Ans. I have been with him; don't know how he has been with me.

Cross-examined:

Q. 1. Was the only consideration for your transferring the $15,000.00 notes of Fleming Price to her, her assuming to pay the $5,000.00 debt in suit at Little Rock?

Ans. No; he owed me himself.

Q. 2. Then what other consideration was there for your transferring these $15,000.00 of notes?

Ans. Asa Hodges owed me besides that $7,000.00 or $8,000.00. There was no other consideration on her part.

Q. 3. Has she ever paid the debt of $5,000.00 in suit at Little Rock, or has the debt Asa Hodges was owing you ever been paid?

Ans. Her obligation to pay the $5,000.00 has never been paid; part of the Asa Hodges debt has been paid.

Re-ex.:

1 Re-Ex. Do you not know that Asa Hodges sold the Ar-
462 nold place to Price?

Ans. I so understood.

2 Re. Were not those notes for the $15,000.00 referred to above part of the consideration for that place?

Ans. I understood so, but don't know it.

And further deponent saith not.

J. F. DOWDY.

Sub. & sworn to before me this Sept. 25, '83.

[L. S.] L. W. HUMES,
U. S. Com'r.

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et als. v.* Asa Hodges *et als.* Deposition of J. F. Dowdy. Filed October 31, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

463 U. S. Circuit Court, Western District of Tennessee.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

Interrogatories and cross-interrogatories to be propounded to R. H. Seals, witness for defendants, in the above-entitled cause, whose deposition, it is agreed, may be taken by or before any judge or clerk of a court of record, notary public, or U. S. commissioner, all formalities being waived and only exceptions for competency and relevancy being reserved.

WEATHERFORD & ESTES,
Sol's for Def'd'ts.
D. H. & W. K. POSTON,
Sol's for Compl'ts.

By defendants' counsel:

Int. 1. Do you — defendant, Asa Hodges, personally; if so, did you live with or do business for him or his wife in Crittenden county, Arkansas, in the year 1882? If so, please state whether any one of your name did that year.

464 *Caption to Deposition.*

The deposition of R. H. Seal, taken on the 3d day of December, 1883, in the office of the clerk of the circuit court in the town of Marion, county of Crittenden, and State of Arkansas, to be read as evidence in an action between Ann E. Cameron *et al.*, plaintiff, and Asa Hodges *et al.*, defendants, pending in the circuit court of the United States for the western district of the State of Tennessee, on behalf of said Asa Hodges *et als.* in the above-entitled action.

To the first interrogatory the said witness says and answers:

Ans. 1st int. I know defendant, Asa Hodges. I did business on the Arnold place for his wife — 1882, and no one else did business for her that year of my name.

Int. 2. Do you know Mr. R. L. Monroe, of Woodruff county, Arkansas; if so, had you any conversation or communication with
465 him regarding the alleged delivery of a deed by defendant Hodges to Fleming H. Price, now dec'd, in the presence of said Monroe? If you answer affirmatively, please state what led to the communication and what Monroe said or wrote about it. If you have letters from him on the subject, please attach them as exhibits. If not, please state what has become of them, and give their contents.

Ans. 2d int. I am acquainted with R. L. Monroe, and he had several conversations with me in reference to a deed from said defendant and wife of the Arnold place to Fleming Price, dec'd, and

from these several conversations I was induced to write to him to learn what he correctly knew about the matter, and in answer I got from him he stated in his letter that if there was any money in it he would come over and give me the information. He also
466 stated that he was the man that could prove the deed, and that if he knew where Mrs. Cameron was he would go to see her. I have lost or misplaced the letter that contained the above statement. I have diligently searched for it, but have not found it.

Int. 3. From your conversations and correspondence with him did you understand that he knew anything of Price's having a deed to the Arnold place or of his alleged ownership of it or not?

Cross-examination for the present waived.
Nov. 10th, 1883.

POSTON & POSTON,
For Compl'ts.

Ans. int. 3. I was led to believe from the several conversations and by the letter of Mr. Monroe that if he could get big pay he knew enough to gain the land for plaintiffs, but if there was no money for him in the transaction then he did not want to testify or know anything. I don't think that I was mistaken
467 in the conclusion that I came to, for I talked to him several times and wrote to him to learn what he knew, and the impression he made on me was that he wanted money and he believed he could get it if he could see plaintiffs.

And further witness saith not.

R. H. SEALE.

STATE OF ARKANSAS, *County of Crittenden:*

I, David Ferguson, clerk of the circuit court in and for said county and State, who took the foregoing deposition of R. H. Seale, do certify that, in pursuance of and in conformity to the above agreement, bearing date Nov. 10th, 1883, *that* after being duly sworn according to law, the said Seals deposed as shown above; that the foregoing deposition of said R. H. Seals was taken by me and is wholly in his own handwriting, and was read by and subscribed by him in
468 my presence at the time and place and in the action mentioned in the caption, the said Seals having been first sworn by me that the evidence he should give in the action should be the whole truth and nothing but the truth, and his statement reduced to writing in my presence.

Witness my official signature as said clerk of circuit court, at Marion, Crittenden county, Ark., this December 13, A. D. 1883.

DAVID FERGUSON, *Cl'k*,
By D. W. LEWIS, *D. C.*

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et als.* Deposition of R. H. Seals. Filed December 14, 1883. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

469 U. S. Court, Western District of Tennessee.

ANNA E. CAMERON *et als. vs.* ASA HODGES *et als.*

Interrogatories to be propounded to and answered by Julia Chapline (col'd), of Crittenden Co., Ark., whose deposition may be taken by A. F. Crittenden, as special commissioner, or any notary public or clerk of a court of record in Arkansas as evidence for defendant Hodges, subject only to exception for competency and relevancy.

D. H. & W. K. POSTON,
Sol's for Compl'ts.

Caption.

STATE OF ARKANSAS, *Crittenden County:*

ANNA E. CAMERON *et al.*, Plaintiffs,

—

ASA HODGES *et als.*, Defendants.

The deposition of Julia Chapline, taken on the 12th Janury, 1884, at the clerk's office in the town of Marion, in the county of Crittenden, in the State of Arkansas, to be read as evidence in
470 an action between Anna E. Cameron *et als.*, plaintiffs, and Asa Hodges *et als*, defendants, pending in the circuit court of the United States for the western district of Tennessee.

Int. 1. Please state whether or not you were in the employ of Fleming H. Price when he died; if so, in what capacity; state also whether or not you were much with him during his last illness and until his burial.

Julia Chapman's answer to interrogatories—answer to 1st quest:

Ans. 1. I was employed by F. H. Price a short time before he was taken sick as housekeeper and cook, but I was not living with him at the time of his last sickness. When I heard he was sick — left my husband to take care of our house; I went immediately to him and remained by his bedside both day and night till he died; helped to shroud him and attended his burial.

Int. 2. What, if anything, did you know regarding his busi-
471 ness matters; what, if anything, regarding the making of a will, and whether it was in writing or not, and whether he had one prior to his last illness?

Ans. 2d. I was familiar with all of Mr. Price's business, as I lived with him three or four years before his death, and there was nothing that transpired about his business — domestic matters but what he communicated to me. I was living with him at the time the Arnold place was sold and the stock for his debts, in February, 1877. I think his aunt, Caroline Hodges, bought the same. He did not want to stay there any longer and work for wages. He would not

have done so if I had not told him I would stay if he would, and he then concluded to stay on the place for wages until he died, in November, 1880. Mr. Price made no will at the time he took
472 sick and died; he made several little gifts. Among them he requested that his brother-in-law should have his horse and saddle and his watch-chain, and that Jimmy Hodges, who stayed by him all the time of his last illness, should have his small pistol, and Mr. Maddox, who was present and nursed him in his last sickness, should have his large pistol, and his aunt Caroline should have his watch. He then called me to his bed and said he had nothing to give me but his gold sleeve-buttons, and told me to take them out of his shirt and keep them. After his death I told Judge Hodges about it; he said that was all right. Mr. Price never had a written will that I ever knew of. I know Mr. Price spent his wages faster than he made them, and that he could have nothing to will.
At the time he was taken sick I was with him nearly all the
473 time, from the time the Arnold place was sold up to the time he was taken sick. I do not believe anything — with him he did not tell me.

Int. 3. What do you —, if anything, regarding the contents of the black satchel in his room during his last illness; what was said and what was done about it, and by whom; were any papers taken away by any one; by whom, and what were they?

Ans. 3d int. After Mr. Price sent for his sister Leffy and aunt Caroline he told Mr. Maddox to hand him the black satchel, as it contained some ugly pictures in it that he did not want them to see, and when it was opened he took out the fancy pictures and had
them burnt up. There were no other valuable papers in the
474 satchel. This I personally knew myself. After Mr. Price died his uncle Asa came in his buggy and told Mr. Jimmy Hodges and myself to get up his books and the accounts of the hands and put them in the buggy, and not to leave them there without the care of some person on the place when we all left with the corpse. I put the papers in the trunk, and his clothes, and sent them out to the buggy, but the trunk was too large for the buggy. Mr. Jimmy Hodges and I put the papers in a pillow slip and took the trunk and books and the horse and sent them with the corpse. I don't think Judge Hodges put his hand on a paper while he was there. I was familiar with every paper in the satchel and with the papers that Judge Hodges took away with him, and had often read them. I examined them. There were no papers except accounts
of cotton sales, of the hands, and the accounts of Mr. Price's
475 bankrupt papers and some of his old accounts. There were no deeds of any kind for land or anything else in the lot of papers taken away by Judge Hodges. Judge Hodges did not seem to want any papers but except the books and cotton accounts of the hands.

Int. 4. State anything else you may know of benefit to defendant Hodges in this cause.

Ans. 4th int. Mr. Price told me just before he was taken sick that he had no deeds to the Arnold place and that his aunt had sent

him — deed to the place if he would pay the St. John debt; that he would not take a deed and pay that debt for the place he was then living on; — the place at that time as her manager.

Cross-examination:

X Q. 1. Is Asa Hodges or his lawyer, Judge Peters, present when this your deposition is being taken? State all who are present.

476 Answer of Julia Chapman to cross-interrogatory:

Answer to 1st cross-int. Judge Peters and Judge Hodges are not present or his attorney, as I am answering the questions and writing them out myself.

X Q. 2. Can you read or write? If you can write please write your own answers to these questions.

Ans. to 2 X int. Can read and write. I am writing out my own answers without any one being present.

X Q. 3. If you pretend to say you were in F. H. Price's employ was it as a cook or farm laborer?

Ans. to 3 X int. I have answered this question fully before.

X Q. 4. Did not F. H. Price keep house, set a table, have a bedroom and furniture therein, and how far did he sleep and eat from the place where Judge Hodges and wife resided?

Ans. to 4 X int. He kept house and table on the Arnold place and slept in his bed and eat there, about three miles, by the road, from Judge Hodges' home place.

477 5 X Int. How much stock, horses, mules, and wagons were there on the place at date of F. H. Price's death? How much corn and cotton was raised there that year? State how much land was cultivated—how much in corn and how much in cotton; if you cultivated any part of the same please state it and the number of bales of cotton and how much corn you raised.

Ans. to 5 X int. At the time Mr. Price died there was on the place 8 mules, 2 horses, 2 wagons, 2 cows and calves, and four or five head of hogs. At the time Mr. Price died he told me he had shipped, for his aunt and the share hands, about seventy-five bales of cotton to Clark — Johnson, in Memphis, Tenn.; the cotton was not all gathered at the time of his death; neither was the corn. I judge he got from the crops of corn made by the hired hands and the share
478 hands a thousand bushels; perhaps not so much after it was all gathered. I do not know anything that took place after Mr. Price's death. About the cotton crops, I suppose there was in cultivation four hundred acres of land, perhaps, more or less. I judge there was about a third of the land put in corn each year he attended business, and balance in cotton. I did not make any crops.

X Q. 6. Are you now in the employ of Asa Hodges or living on his property; if so, for what length of time?

Ans. to 6 X int. I am not in Judge Hodges' employ or living on his place.

X Q. 7. Did you personally examine into the contents of the black satchel during his, Fleming H. Price's, last illness; if yea, when? And if you pretend to state anything about papers contained therein, please state how you know what such papers were. Did you read them? Did you hear them read; if so, by whom?

479 Ans. to X Q. 7. I did make — personal examination at the time of the black satchel, and examined all the papers it contained and all the papers I sent out to Judge Hodges.

X Q. 8. Mrs. Callie Hodges, the wife of Asa Hodges, told Mr. Wm. Hargus that that black satchel contained F. H. Price's valuable papers. Would you believe what she said as to their contents, and if she said they were valuable would you not believe it?

Ans. X Q. 8. I would believe any statement his aunt, Mrs. C. S. Hodges, would make if she knew what she was talking about, but I do not believe she ever saw the black satchel or anything it contained, as she never had any opportunity to see it up to the time of his death.

X Q. 9. If they were worthless and not valuable why was it that Asa Hodges wanted to and did take them away with him?

480 Ans. X Q. 9. The papers Judge Hodges took with him were of no use to any person except his wife and the hands on the place, as there were no individual papers of Mr. Price with them, except his bankrupt papers and some old accounts of his.

X Q. 10. If you say the papers were taken away by Asa Hodges then state how you know the facts, and if you pretend to state what particular papers were taken then state how you know the facts. Did you read them or examine them carefully; if not, how can you say what they were?

Ans. X Q. 10. I have answered fully.

X Q. 11. How long had you been in Fleming H. Price's employ when he died?

Ans. X Q. 11. I had been in his employ about three years.

X Q. 12. How long had he lived upon the Arnold tract of land and been keeping house there?

Ans. X Q. 12. From July, 1875, up to his death.

481 X Q. 13. Who was present the night that F. H. Price died besides yourself, if you shall say you were present?

Ans. X Q. 13. Mr. James Hodges, Mr. Maddox, myself, Cont. Lenox, Perry Arnold, and several others.

X Q. 14. How much cleared land was there on the place where F. H. Price died, and has or not Asa Hodges been planting or renting out the same ever since his death?

Ans. X Q. 14. I suppose there are about 400 acres. Judge Hodges has had it cultivated on the shares since and before his death.

X Q. 15. What is the rental value per acre of such land as Asa Hodges took possession of, to wit, the Arnold tract of land, for the years 1881, 1882, and 1883; what does such land rent for per acre?

Ans. X Q. 15. From three to five dollars per acre. Some land equally as good rents for less, some for more.

X Q. 16. You are testifying on oath. Now, please answer

482 what pay, or promise of pay, or other reward has Asa Hodges

or any agent of his promised you for your deposition in this cause. Are you white or black?

Ans. X Q. 16. I am testifying under oath, and do state that Judge Hodges has not, nor any one for him, promised me a cent for this my deposition, and what I have stated are only facts. I am a colored woman, and I have as high regard for the truth as any one.

X Q. 17. If you can, state the number of bales of cotton Judge A. Hodges has shipped from the "Arnold place" for years 1881, 1882, & 1883; and state, if you know, to whom shipments were made.

D. H. & W. K. POSTON,
Sol's for Mrs. Cameron & Other Plaintiffs.

Ans. X Q. 17. I cannot state the number of bales since Mr. Price's death, as I have no measure of knowing anything about the
483 business on the place. I heard all the cotton has been shipped to Clark, Johnson — except crop of 1883, and that has been shipped to Taylor and Powell. I have these facts from the hands on the place. I cannot say anything more than I have.

JULIA CHAPLIN.

Subscribed and sworn to before me this 12th day of January, 1884.

DAVID FERGUSON, *Clerk.*

Certificate.

STATE OF ARKANSAS, *County of Crittenden:*

In pursuance of a written agreement attached to the interrogatories and cross-interrogatories in the case of Anna E. Cameron, plaintiff, and Asa Hodges & *al.*, defendants, now pending in the circuit court of the United States in the city of Memphis, the western district of Tennessee, which will be found the interrogatories and
484 cross-interrogatories attached hereto, I, David Ferguson, the clerk of the circuit court of the county of Crittenden, in the State of Arkansas, a court of record in said county and State aforesaid, do certify that the foregoing deposition of Julia Chaplin was taken before me, and was read — her and subscribed by her in my presence at the time and place and in the action mentioned in the caption, the said Julia Chaplin having been first duly sworn by me that the evidence she should give in the action should be the truth, the whole truth, and nothing but the truth, and the statements reduced to writing by her in my presence, no party being present at the examination by attorney or in person.

Given under my hand this 12th day January, 1884.

[County Seal.]

DAVID FERGUSON, *Clerk.*

485 Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et als.* Deposition Julia Chaplin. Filed January 14, 1884. Bell W. Etheridge, cl'k; W. B. Weisiger, D. C.

486 U. S. Court, Western District of Tennessee.

ANN E. CAMERON *et al. vs.* ASA HODGES *et als.*

Interrogatories to be propounded to and answered by James M. Hodges, of Presidio Co., Texas, before a notary public or U. S. commissioner or clerk of court of record or commissioner for Tennessee authorized to administer oaths, and to be read in evidence for defendant Hodges, subject only to exception for competency and relevancy.

D. H. & W. K. POSTON,
Sol's for Compl'ts.

Int. 1. Where did you reside, and for whom were you doing business at the time of the death of Fleming H. Price, in Crittenden Co., Ark.?

STATE OF ARKANSAS, *Crittenden County:*

ANNA E. CAMERON *et al.*, Plaintiffs,

vs.

ASA HODGES *et als.*, Defendants.

487 The deposition of James M. Hodges, taken on — day of January, 1884, at the clerk's office, in the town of Marion, in the county of Crittenden, in the State of Arkansas, to be used as evidence in an action between Anna E. Cameron *et al.*, plaintiffs, and Asa Hodges *et al.*, defendants, pending in the circuit court of the United States for the western district of Tennessee.

James M. Hodges' answer- to interrogatory and cross-interrogatory in the above-styled case.

Ans 1st. Int. Was doing business for Mrs. C. S. T. Hodges, in Crittenden county, Ark., and resided on her Home place.

Int. 2. How much of your time, if any, did you spend with said Price during his last illness?

Ans. 2d Int. I was with him almost constantly, day and night.

Int. 3. State whether or not you were frequently with him, and on intimate terms with him prior to his death. How long
488 and how intimately did you know him?

Ans. 3 Int. I was, previous to his sickness, with him nearly every day and often of nights. We had been intimate eight or ten months before his death.

Int. 4. After the sale of the place on which he lived under decree of court and its purchase by Mrs. C. S. T. Hodges had you any talk with said Price regarding the repurchase of the place by him or regarding her wish to sell it to him? If so, please state what he said, how long this was prior to his death, and whether or not any change in the matter was made prior to his death; and, if so, in what way.

Ans. 4 Int. I did not know anything of the sale of the Arnold

place in 1877, except what I heard; never heard him or Mrs. Hodges speak of it. He occupied the place as manager for wages when he died.

489 Int. 5. During the last illness of Price did you hear him say anything regarding the making of a will; if so, was it verbal or in writing? When was it made, if at all? And state, if you can, its contents, or in what the will consisted.

Ans. 5 Int. There was no will made by Mr. Price during his last illness. He made several verbal requests and stated he wanted Mr. Cameron to have his watch-chain and Aunt Callie his watch. His small pistol he wanted me to have and his large one he wanted Mr. Maddox to have, and if he had anything left after his debts were paid he wanted his sister Liff to have 2 shares and his other sisters the balance.

Int. 6. Do you know whether or not he had made a will prior to his death? What means had you of knowing whether he
490 did or not? Did you ever see one or hear him say that he had one?

Ans. 6 Int. I don't think he had made any will previous to his death. I examined all his papers and never saw nor heard of any will.

Int. 7. Do you recollect a black satchel or any other satchel or valise in his room during his illness; did you see it opened; did you or not inspect its contents? State all, if anything, you know about it, and what papers, if any, or valuables were taken away about the time he died or soon after.

Ans. 7 Int. I recollect the black satchel in his room. I did see it opened and emptied the papers out of it. There were no papers of any value in it to him or any one else. Uncle Asa told me after Mr. Price's death to get up all the books and papers, accounts
491 of hands, &c., and not to leave them, and I then immediately went and got the papers and trunk and took them to the buggy for Uncle Asa to take home with him, and the buggy would not hold the trunk, and Julia and myself emptied the papers in a pillow slip and put them in the buggy, and we sent the trunk next day with the corpse to the Home place. There were no papers of any value taken away but the trunk containing the accounts of the hands and accounts of the labor of the hands. Mr. Price requested that I should give Uncle Asa all the papers before he died.

Cross-examination by HUMES & POSTON for compl'ts:

X Q. 1. At the date of F. H. Price's death were you or not living with him or upon the place where Asa Hodges and wife resided, and what was the nature of your employment?

492 Answer to 1st and 2d X Int. I have answered this in my first answer, and I resided in Shelby county, Tennessee.

X Q. 2. Where had you resided previous to the date of F. H. Price's death, and where is your home?

— ——.

X Q. 3. Were you a common farm hand or were you book-keeper or overseer, or what were your particular duties?

Ans. 3 X Int. I was manager on Home place and attended to business of every kind except practice law and medicine.

X Q. 4. Did you know that Mr. Hodges and wife, in January, February, or March, 1880, before F. H. Price's death, in the presence of Judge Peters and Mr. Munroe, delivered to him a deed free from incumbrance for the Arnold place, the place upon which he subsequently died?

Ans. 4 X Int. Did not know it, and do not believe it. If Mr. Price had received a deed of that kind he would have told
493 me of it, and so would Aunt Callie and Uncle Asa. Mr. Price would have shown it to me, and I would have seen it among his papers while he was sick.

X Q. 5. Did or not a Mr. Munroe live with your uncle Asa Hodges during the year 1880, possibly beginning in the fall of 1879, or at any other time?

Ans. X Q. 5. Mr. Munroe might have been living with them before I went there in the spring of 1880.

X Q. 6. Mrs. Cameron, one of the complainants, testifies that in September, 1880, Mrs. Caroline S. T. Hodges, wife of Asa Hodges, told her that F. H. Price owned the Arnold place, the crop and stock thereon. Now, if this is true, and Mrs. Hodges made the admission, would you or not say you were mistaken as to what F. H. Price owned? Would you or not believe anything that Mrs. C. S. T. Hodges might say on the subject? Was she or not a lady of truth and veracity?

Ans. 6 X Int. Mrs. Cameron told me a great deal about
494 Aunt Callie's admission, but she never told me any such admission, and if Mrs. Cameron were to state anything of the kind I could not believe it, as she stated the reverse to me. I would believe anything Mrs. Hodges would say if she understood what she was talking about.

X Q. 7. If F. H. Price had told his sister, Mrs. Cameron, that he had bought and paid for the Arnold place, the stock, &c., and owned the crop thereon being raised in Sept., 1880, and had a deed therefor, and this was also admitted by Mrs. C. S. T. Hodges, would you or not believe it to be so? If this was true and was admitted to be true, then are not your surmises and statements incorrect as to F. H. Price's property and effects?

Ans. X Q. 7. If Mr. Price had told his sister Liffie any such thing I would think he was intoxicated and not at himself, because his acts and business transactions contradicted anything of the kind every day of his life.

495 X Q. 8. Was or not F. H. Price a man of veracity; what relationship were you to him; what is your age and what was his?

Ans. 8 X Q. Mr. Price was a man of truth, unless he was drinking, and then much allowance might be made for his statements. I was his first and second cousin.

X Q. 9. Was or not F. H. Price a good farmer, and how long had he been so engaged upon the Arnold place; had he not been there since 1875 or 1876?

Ans. 9 X Q. He was regarded as a good farmer; do not know how long he had been on the place.

X Q. 10. Did not F. H. Price keep house on the Arnold place where he died; if so, for what length of time had he so kept house there, and what was the distance from that place to the place owned and occupied by Asa Hodges and wife, in Crittenden Co., Ark.?

Ans. X Q. 10. He kept house as manager on the Arnold place for Aunt Callie; it adjoined the Home place; by the road, was three miles.

496 X Q. 11. If you pretend to say you examined the contents of that black satchel or valise please state whether it was done in the presence of F. H. Price the night of his death; if not, when.

Ans. 11 X Q. Before and after his death.

X Q. 12. Did he or not call for it and separate and burn the worthless papers and put the valuable papers back and instruct them to be handed over to his sister, Mrs. Cameron, and not to Asa Hodges or his wife; if not, what did he say on the subject, and how came he to want the papers separated at all?

Ans. X Q. 12. He said nothing about handing any of the papers to his sister, but said he wanted them sent to his Uncle Asa.

X Q. 13. Did not Asa Hodges come down and take these papers from F. H. Price's house and carry them to his house immediately or within a day or two after F. H. Price's death?

Ans. X Q. 13. I have answered this fully.

X Q. 14. If they were of no value why were they removed?

497 Ans. 14 X Q. Answered this fully.

X Q. 15. Now, Mr. Hodges, in an interview between one Wm. Hargus and Mrs. C. S. T. Hodges, wife of Asa Hodges, a few days after the death of F. H. Price, Mrs. Hodges admitted that the papers brought by her husband from F. H. Price's house were valable; how can you say, therefore, that they were not?

Ans. 15 X Q. I don't think Mrs. Hodges told Mr. Hargus any such thing, as I had all the papers that came from Mr. Price's after his death in my case at the Home place, and they remained there until I left in 1881. I don't think Mrs. Hodges had ever seen them up to the time I left in 1881.

X Q. 16. How long was F. H. Price sick in the illness in which he died, and how many days did you spend with him?

Ans. X Q. 16. About ten days; was with him almost constantly day and night.

17 X Q. Did F. H. Price himself separate these papers and was that the first time you saw them, and was or not this the last night of his life?

498 Ans. 17 X Q. I saw his papers several times; he handled some of them himself.

X Q. 18. How much crop was raised on the Arnold place during 1880, the year of Price's death; how much cotton and how much corn; how much cleared land was there on the place and what was its rental value, and what is the rental value of farming lands on the place for the year- 1881, 1882, & 1883?

Ans. X Q. 18. Do not know; some four hundred acres cleared; rental value, from three to five dollars per acre.

X Q. 18. What became of the crop raised on the place during the year 1880, the year F. H. Price died; where was it shipped and to what merchant and in what marks?

Ans. X Q. 18. Shipped on account of C. S. T. Hodges to Clark, Johnson & Co., Memphis. The marks of the cotton were mostly C. S. H., with drop letters. The letters on the cotton raised on
499 the Arnold place were diamond, so as to keep the cotton raised on the different places separate. That raised on the Peters place were W. & H.; that raised on the Egypt place were C. S. H. J. B. Every place had distinguishing marks, as many of the hands had the same initial letters to these names.

19 X Q. Who is present when this deposition is being taken, and have you been furnished with any memoranda or data or any letter or other papers to refresh you as to what you are wished to testify to? If yea, please file same as Exhibit No. 1 to your deposition.

Ans. X Q. 19. I am alone and writing out my answer myself, without any one to refresh my memory.

X Q. 20. Are you paid anything for this deposition or promised any compensation or reward therefor, or are to be benefitted in any manner by Asa Hodges for the testimony you are to give?
500 If so, state in what way and what pay or reward you are to get.

Ans. X Q. 20. I am not paid a single cent for this deposition or promised a cent, and I am not to be benefitted by it that I know of. I did not know until I came to my father's, Sunday, Jan. 27, 1884, that my deposition was wanted by Uncle Asa.

X Q. 21. Do you or not know the complainant, Anna E. Cameron? If yea, and you are related to her, state what such relationship is.

Ans. X Q. 21. I know her well; she is my first cousin, and by marriage my second cousin.

X Q. 22. Did you not have several conversations with her in reference to F. H. Price's matters, and did you or not give her a written statement in which you stated to her that you knew F. H. Price made a written will, and that your uncle Asa Hodges wrote it?
501 Ans. X Q. 22. I had a number of conversations with her relative to Mr. Price's matters in 1880 and 1881. I don't think I did. I have no recollection of giving her a written statement, and don't recollect of saying Uncle Asa wrote his will. In one of the conversations with her she told me that Aunt Callie and Uncle Asa both told her after Mr. Price's death that she could have possession of the Arnold place if she would raise or pay the balance of St. John debt of about fifteen thousand dollars; but she said that she could not pay that amount, and that she did not intend to try to pay it, as her lawyers told her that they would gain the place for her, and they would take a part of the place as payment, after recovery, for their fees, and that it would not cost her anything to recover the place, and the only reason she had any confi-
502 dence in gaining the place was because her lawyers were willing to do all the work without its costing her anything. In

another conversation with her relative to Mr. F. H. Price's affairs I wanted her and Mr. Cameron to give me money to go back to Texas, in 1881, as John Price, one of her brothers and one of the complainants, promised me that if I would come from Texas here and give my testimony that he would pay my way here and back to Texas and reward me well if they recovered the place. I told him and her after I got here that there was no use of it; that I did not know anything to benefit them, and on this John Price insisted on my coming and seeing his sister Liffy, — would refresh my memory when I got here. He gave me money to pay my way here,
503 and Mr. Cameron gave me money to go back part of the way to Texas (to Austin, where I was engaged at the time John Price came after me), but after she and the lawyers examined me they said what I knew would do them no good. They did not take my deposition.

X Q. 23. If you know of any other fact that will aid the complainant- in their recovery of the Arnold property state same as fully as if thereunto specially interrogated.

Jan'y 8, 1884.

D. H. & W. K. POSTON,
Sol's for Plaintiffs.

Ans. X Q. 23. I do not know anything that will benefit complainants.

Further witness sayeth nothing.

JAS. M. HODGES.

STATE OF ARKANSAS, *County of Crittenden:*

In pursuance of a written agreement attached to the interrogatory and cross-interrogatory in the case of Anna E. Cameron *et al.*, plaintiffs, and Asa Hodges *et al.*, defendants, now pending in
504 the circuit court of the United States, in the city of Memphis, for the western district of Tennessee, which will be found in the interrogatories and cross-interrogatories hereto attached, I, David Ferguson, the clerk of the circuit court of the county of Crittenden, in the State of Arkansas, a court of record in said county and State, do certify that the deposition of James M. Hodges having first been duly sworn by me that the evidence he should give in the action should be the truth, the whole truth, and nothing but the truth, and the statement reduced to writing by him in my presence, no party being attorney or in person, and the same was read by him and subscribed by him in my presence at the time and place and in the action mentioned in the caption.

This Jan'y 29, 1884.

DAVID FERGUSON, *Clerk.*

We object to the reading of this deposition because the wit-
505 ness has failed to respond to and answer X interrogatories 6th and 7th, 12th, 17th, and 18th, but has clearly failed to do so.

Feb'y 7th, 1884.

HUMES & POSTON,
Sol's for Compl'ts.

Endorsed: No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa Hodges *et als.* Deposition of James M. Hodges. Filed Feb'y 1, 1884. Bell W. Etheridge, clerk. W. B. Weisiger, D. C.

506 UNITED STATES OF AMERICA,
— *Division of the Western District of Tennessee:*

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its November term, A. D. 1883, at the United States court-house, in the city of Memphis, in said district, on, to wit, the 11 day of February, A. D. 1884, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiffs,
vs.
ASA HODGES and Others, Defendants. } No. 376.

Came the parties, both complainants and defendants, by their solicitors, and the application of complainants for postponement of the hearing *at* for to-day is granted, and thereupon, by consent, Wednesday, March 5, 1884, is fixed for hearing this cause, until which time further proof may be taken by either party.

507 *Agreement as to Deposition of Cameron and Wife.*

In U. S. Circuit Court.

ANNA E. CAMERON *et al. vs.* ASA HODGES *et al.*

SARDIS, MISS., *Feb.* 20, 1884.

Mess. Poston & Poston.

GENTLEMEN: Yours of 19th inst. at hand and contents carefully noted. As to Mr. R. L. Monroe, I never heard of him till you wrote us you were going to take his deposition; have never heard of him at all except through yourselves; never saw him in my life, and there has never a word of communication passed between us, either written, spoken, or otherwise. As to any definite contract or agreement about compensation for services rendered by you, nothing of the sort has ever been made. The only thing that ever was said on the subject was at the time of our first interview with Gen.
508 Humes on the subject. That was at a time when we were under the impression, made by the statement of certain parties, that the property had been willed to Mrs. Cameron and her three single daughters. Then Mrs. Cameron stated to Gen. Humes that she was the wife of a Methodist preacher, and that his only hope of compensation was in our gaining the property, and his reply in substance was that he understood that, and would assure her that the fees should be moderate. After that the suit was brought in the name

of Mrs. Cameron, her three sisters, and a brother's orphan children. At that time nothing was said as to fees, nor has there ever been a word on the subject. You are right when you say "no definite agreement or contract was ever made about compensation." I hope
509 you will be able to bring up the case at the time specified, as I suppose you have all the testimony there is and as suspense is very unpleasant. Hoping the above answers will be satisfactory, I am, yours truly,

J. D. CAMERON.

I fully concur in the statement above as to agreement and contract for compensation, and say myself the same in regard to Mr. Munroe.

A. E. CAMERON.

I agree that the parties (Cameron and wife) wrote these letters, and that they will testify to this effect if their depositions are taken, and that the letters may be read as their depositions.

Waiving cross-examination.

Feb. 23, 1884.

ASA HODGES,
By WEATHERFORD & ESTES, *Sol's.*

Endorsed: Equity No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et al. vs.* Asa
510 Hodges *et al.* Letter of Anna E. Cameron and John D. Cameron, and agreement that it may be read as their deposition. Filed Feb. 25, 1884. Bell W. Etheridge, cl'k. W. B. Weisiger, D. C.

511 UNITED STATES OF AMERICA,
— *Division of the Western District of Tennessee:*

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its November term, A. D. 1883, at the United States court-house, in the city of Memphis, in said district, on, to wit, the 5 day of March, A. D. 1884, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiffs,
vs.
ASA HODGES and Others, Defendants. } No. 376.

In this cause came the parties this day, by their respective solicitors, when the trial thereof was commenced, when, there not being sufficient time to conclude the same on to-day, the further consideration thereof is hereby postponed till to-morrow morning.

512 UNITED STATES OF AMERICA,
— *Division of the Western District of Tennessee:*

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its November term, A. D. 1883, at the United States court-house, in the city of Memphis, in said district, on, to wit, the 6 day of March, A. D. 1884, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiffs,
vs.
ASA HODGES and Others, Defendants. } No. 376.

In this cause came again the parties, by their respective solicitors, when the trial thereof was again resumed, but, there not being sufficient time to conclude the same on to-day, the further consideration thereof is hereby postponed till to-morrow morning.

513 UNITED STATES OF AMERICA,
— *Division of the Western District of Tennessee:*

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at regular term thereof, begun and held for its November term, A. D. 1883, at the United States court-house, in the city of Memphis, in said district, on, to wit, the 7 day of March, A. D. 1884, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiffs,
vs.
ASA HODGES and Others, Defendants. } No. 376.

In this cause came again the parties, by their respective solicitors, when the trial thereof was again resumed, but, there not being sufficient time to conclude the same on to-day, the further consideration thereof is hereby postponed till to-morrow morning at ten o'clock.

514 UNITED STATES OF AMERICA,
— *Division of the Western District of Tennessee:*

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its November term, A. D. 1883, at the United States court-house, in the city of Memphis, in said district, on, to wit, the 8 day of March, A. D. 1884, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiffs,
vs.
ASA HODGES and Others, Defendants. } No. 376.

This cause coming on to be heard, and on application of complainants and for satisfactory cause shown to the court, it is ordered that complainants have leave to amend their bill herein by adding thereto the following allegations, to wit: "Complainants, on information and belief, allege that if the paper writing executed by said Asa Hodges and wife, C. S. T. Hodges, and by them delivered to said
515 Fleming H. Price as and for a conveyance by them to him of the said plantation called the 'Arnold place' was not sufficient in substance and formalities of execution to constitute a deed which would operate to convey to him the legal title to said property, yet it was a sufficient paper writing, under the law and statute of frauds, to authorize a court of equity to require them to execute and deliver a proper deed, duly executed and acknowledged, and they therefore pray, if it should turn out that the said paper writing was not such a deed, then that the court treat and establish it as proper and sufficient paper writing, and enforce it accordingly by the proper decree."

And thereupon, by consent of all the parties to this suit,
516 both complainants and defendants, given in open court, it is ordered that said amendment be treated and considered as made without being, in fact, written in the body of the bill, on which issue is properly joined by defendants; and thereupon, this cause coming on further to be heard on the pleadings and proofs on file herein, and the same being seen and understood by the court, and the same being argued by counsel for both complainants and defendants, and after due consideration, the court is of opinion, and orders and decrees, that complainants have failed to establish the equities alleged in their pleadings herein, and accordingly decrees that the bill herein be dismissed, and that defendants go hence without day and recover of complainants and also of W. K.
517 Poston, their surety on the cost bond, the costs of this cause, for which let execution issue as at law, all of which is finally ordered.

518 UNITED STATES OF AMERICA,
— *Division of the Western District of Tennessee:*

In the Circuit Court of the United States within and for the Western Division of the Western District of Tennessee, in the Sixth Judicial Circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its November term, A. D. 1883, at the United States court-house, in the city of Memphis, in said district, on, to wit, the 15 day of April, A. D. 1884, in the following cause, to wit:

ANNA E. CAMERON and Others, Plaintiffs,
vs.
ASA HODGES and Others, Defendants. } No. 376.

In this cause this day came the complainants and prayed an appeal to the next term of the Supreme Court of the United States, to be held at Washington, D. C., which appeal is granted upon their entering into a bond for costs in the penalty of five hundred dollars, conditioned according to law, within sixty days from this date.

519 Supreme Court of the United States.

Know all men by these presents that we, A. E. Cameron & J. D. Cameron & all other complainants, principals, & D. H. Poston & L. W. Humes, as sureties, are held and firmly bound unto Asa Hodges *et al.* in the sum of five hundred ($500.00) dollars, to be paid to the said Asa Hodges *et al.*, his executors or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals. Dated this 17th day of May, 1884.

Whereas the above-named Anna E. Cameron *et als.* hath prosecuted a writ of appeal to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled action by the circuit court of the United States for the western district of Tennessee:

Now, therefore, the consideration of this obligation is such that if the above named Anna E. Cameron *et al.* shall prosecute their said writ of appeal to effect and answer all costs if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

ANNA E. CAMERON & OTHER COMPL'TS,
Per HUMES & POSTON, *Sol's.* [SEAL.]
D. H. POSTON, *Surety.* [SEAL.]
L. W. HUMES, *Surety.* [SEAL.]

Acknowledged before me this 17 day of May, 1884.
BELL W. ETHERIDGE, *Clerk.*
——— ———, *D. C.*

Approved July 21, 1884,
E. S. HAMMOND, *Judge, &c.*

[Endorsed:] Eq. No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et als. vs.* Asa Hodges *et als.* Appeal bond to United States Supreme Court. Filed the 17 day of May, A. D. 1884. Bell W. Etheridge, clerk.

520 United States of America to Asa Hodges and C. B. Clarke, ex'r of E. E. Clarke, dec'd, surviving partner of the late firm of Clarke & Johnson & Co., D. H. Poston, & W. Y. C. Humes, trustees, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday in October, 1884, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the — circuit and western district of Tennessee, wherein Anna E. Cameron and J. D. Cameron, her husband; Mary F. Thompson and her husband, J. A. Thompson; Eudora J. Morton and W. L. Morton, her husband; Laura C. Cobb and her husband, R. W. Cobb; J. E. Price, Gaston Price, William Price, Lawler Price, minor heirs of R. W. Price, who sue by their mother & next friend, Lelia Price; Lelia Price, widow of W. R. Price, are plaintiffs and you are defendants in error to show cause, if there be any, why the judgment in the said writ of error, mentioned should not be corrected and speedy justice done to the parties in that behalf.

Witness the Honorable E. S. Hammond, judge of the district court of the United States for the western district of Tennessee, this 21 day of July, 1884.

E. S. HAMMOND, *Judge.*

521 [Endorsed:] No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron and others *vs.* Asa Hodges and others. Citation. Filed the 23d day of July, A. D. 1884. Bell W. Etheridge, clerk. W. B. Weisiger, D. C. July 23. Weatherford & Estes.

At Memphis, Tenn., and on the 23rd day of July, 1884, I executed the within on W. G. Weatherford, Esq., as attorney of record for Asa Hodges, and for D. H. Poston, trustee, etc., W. Y. C. Humes being dead, and on the 31st day of July, 1884, I executed the same on C. B. Clarke, executor of estate E. E. Clarke, dec'd, surviving partner of the late firm of Clarke & Johnson, both services being made known to them by reading and making known the contents hereof.

M. T. WILLIAMSON,
U. S. Marshal.

2 services	$4 00
Street cars	20
	$4 20

522 THE UNITED STATES OF AMERICA,
Sixth Judicial Circuit, Western District of Tennessee:

I, Bell W. Etheridge, clerk of the circuit court of the United States for said western district of Tennessee, do hereby certify that the papers hereto attached are full, true, perfect, and correct copies of the original record and proceedings in said court as the same now

appear of record and upon the files in my office in the following cause, to wit: Anna E. Cameron *et als. vs.* Asa Hodges *et als.*, No. 376.

In testimony whereof I have hereunto set my name and affixed the seal of said court, at office, in the city of Memphis, this 30th day of September, A. D. 1884, and of the Independence of the United States the 109th year.

{ Seal of the Circuit Court of the United States for the District of West Tennessee. }

BELL W. ETHERIDGE, *Clerk.*
—— ——, *D. C.*

[Endorsed:] Eq. No. 376. Circuit court of the United States, western district of Tennessee. Anna E. Cameron *et als. vs.* Asa Hodges *et als.*

Endorsed on cover: W. Tennessee C. C. U. S. No. 208. Anna E. Cameron and J. D. Cameron, her husband; Mary F. Thompson and her husband, J. A. Thompson, *et al.*, appellants, *vs.* Asa Hodges, C. B. Clarke, executor of E. E. Clarke, deceased, and surviving partner of the late firm of Clarke, Johnson & Co., and D. H. Poston, & W. Y. C. Humes, trustees. Filed February 23, 1885.

127-332

IN THE

Supreme Court of the United States.

October Term 1887.

ANN E. CAMERON ET AL.
vs.
ASA HODGES ET AL. } No. 208.

Asa Hodges, being sworn, says that he is the defendant and appellee in this cause, and that the affidavit made by him for its removal from the State court in Tennessee to the United States court was inadvertently made less full than the facts warranted; that at the time of the institution of said suit he was, and ever since has remained, a citizen of the State of Arkansas; and that at the same time Ann E. Cameron and J. D. Cameron were citizens of the State of Mississippi; Mary F. Thompson and J. A. Thompson, and J. E. Price, were citizens of the State of Texas; E. J. Morton, L. W. Morton, L. C. Cobb, and R. W. Cobb, were citizens of the State of Alabama; and Gasken Price, Wm. Price, Lawler Price, and Leila Price, were citizens of the State of Tennessee; and that the parties named were all the complainants in said cause.

A. HODGES.

STATE OF TENNESSEE,
County of Shelby. }

Personally appeared the undersigned, notary public for said county and State, Asa Hodges, who made oath that the statements in the foregoing affidavit are true.

Subscribed and sworn to before this 20th day of April, 1888.

[SEAL.]

J. E. DILLARD,
Notary Public.

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127-322

Office Supreme Court U. S.
FILED
FEB 13 1888
JAMES H. McKENNEY,
CLERK

Supreme Court of the United States

OCTOBER TERM, 1887.

ANNA E. CAMERON ET AL., APPELLANTS,

vs. } No. 208.

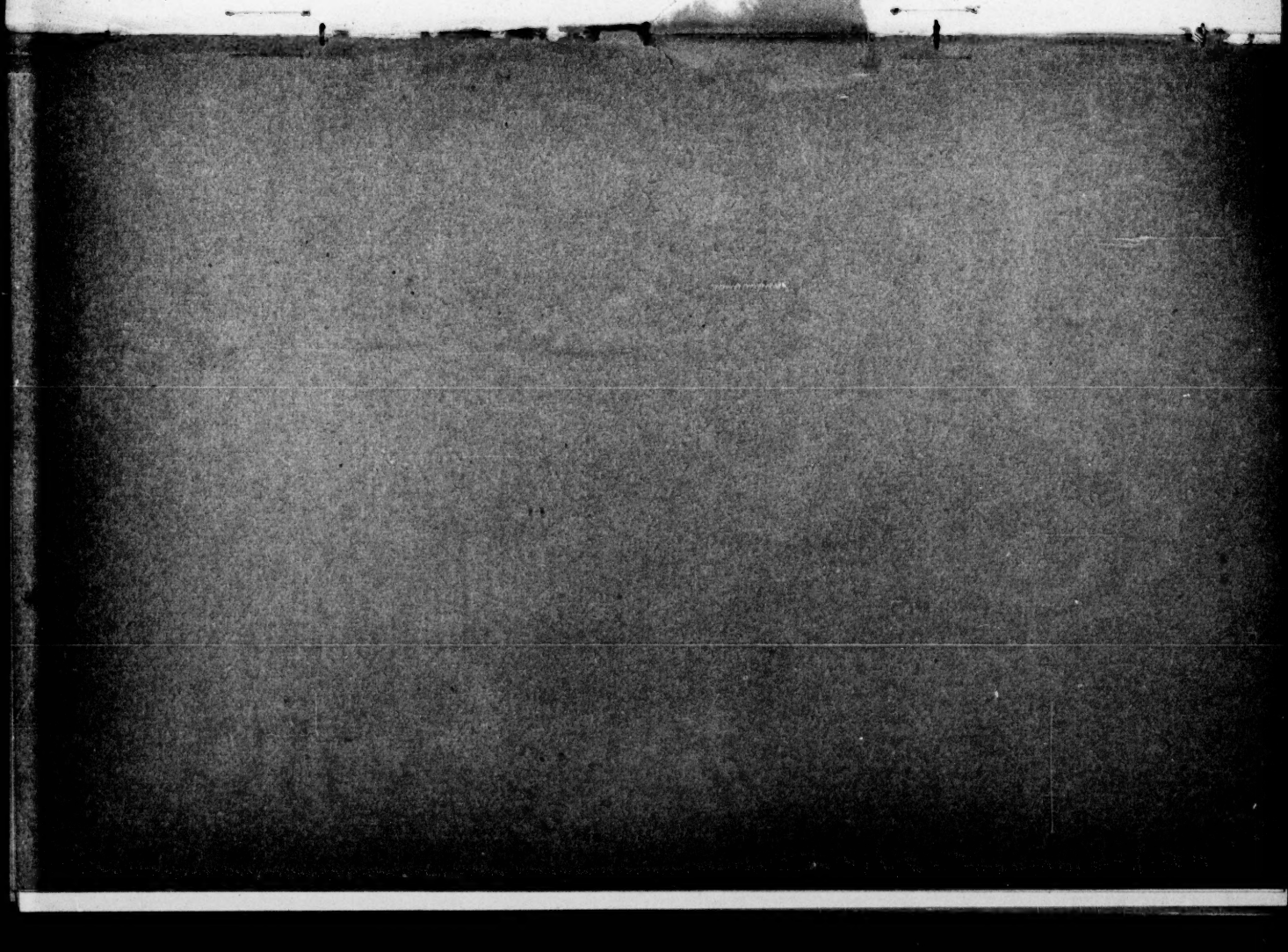
ASA HODGES ET AL., APPELLEES.

On Appeal from the Circuit Court of the United States for the Western District of Tennessee.

BRIEF AND ARGUMENT OF D. H. & W. K. POSTON,

FOR APPELLANTS.

S. C. TOOF & CO. PRS. & LITHS., MEMPHIS



Supreme Court of United States.

OCTOBER TERM, 1887.

ANNA E. CAMERON ET AL., APPELLANTS,

vs. } *On Appeal from Circuit Court of the United States for the Western District of Tennessee.*

ASA HODGES ET AL., APPELLEES.

ASSIGNMENTS OF ERROR.

Appellants assign the following errors to the decree of the court below:

1st. Said court erred in holding and decreeing that under the pleadings and proofs in this cause the appellants had failed to establish the equities set up in their pleadings and dismissed their bill, for the proofs in the cause clearly demonstrate that the Arnold Plantation sued for, was the property of said Price, and he had a deed therefor, and his heirs were entitled thereto, with the crops, stock and farming implements thereon, and the decree of the court to the contrary is erroneous.

2d. The court erred in not finding and so decreeing that Price owned the Arnold Plantation and that Hodges and wife held the title or deed therefor, for said Price.

3d. It erred in not holding and decreeing from the proofs in the cause, that Price had his deed for said Arnold Plantation, with his will, among his private papers, and that the same were, after his death, fraudulently taken possession of and suppressed by said Hodges.

D. H. POSTON & W. K. POSTON,
Solicitors for Appellants.

Supreme Court of United States.

OCTOBER TERM, 1887.

ANNA E. CAMERON ET AL., APPELLANTS,

vs. } *On Appeal from Circuit Court of the United States for the Western District of Tennessee.*

ASA HODGES ET AL., APPELLEES.

BRIEF AND ARGUMENT OF D. H. & W. K. POSTON,

FOR APPELLANTS.

PLEADINGS.

The bill filed herein on the 22d August, 1882, avers that, F. H. Price departed this life a resident of Crittenden county, Arkansas, intestate, on the 2d of November, 1880, or if he left a will that the same has been suppressed or destroyed; that he died unmarried without issue, leaving the complainants, his brothers and sisters and issue of a deceased brother and sister, his only heirs at *law*, and as such entitled to his estate; that said Price owned the Arnold Plantation in Crittenden county, Arkansas, and had fully paid for the same, and had in his possession a deed therefor which has also been suppressed or destroyed; that he had been living on said Arnold Plantation for many years, and had thereon, at date he died, a good crop of corn and cotton, besides had the place well stocked with

farming utensils, mules, wagons, etc.; that in the month of September, 1880, about six weeks before his death, said Price, *then being in possession of said plantation and crop*, in a conversation with his sister, told her that he had his business matters all in good shape, and his titles to the land in black and white—meaning proper deeds therefor.

That during his last illness, when it became apparent that his death would likely ensue in a very short while, he requested that his sister, Anna E. Cameron, be sent for, and requested a dispatch to be sent to her, which was also suppressed by the defendant Asa Hodges, and not sent until it was apparent that it could not reach her in time to be present before he died.

That when it became apparent that his sister could not reach him, he had his business and valuable papers separated, and put into a small valise with instructions to deliver the same only to his sister; that soon after his death, defendant Asa Hodges came to the house and took charge of the papers, and had them put into a bag, and carried them home, and has made away with them; that the title to this Arnold Plantation was originally in Caroline S. T. Hodges, wife of defendant Asa Hodges; and that both she and her husband admitted, repeatedly, that this property belonged to F. H. Price, with all the stock, farming implements and crops thereon; that said plantation was very valuable, and had thereon at the date of said Price's death a large crop, and a rental value of from $3000 to $5000 per annum.

That in said valise and papers was the will, and deed to said Price for said plantation, that had never been registered, and all of which went into the hands of said Hodges; and that said Hodges has appropriated to his own use all

of said crops, stock, farming utensils, and has made away with all of said papers.

The bill then averred, that while the title was in Mrs. C. S. T. Hodges, she held the same as a resulting trust in favor of said Price; that she and her husband put a trust deed on this and other property to secure $15,000, but the bill avers that these rents, so received by said Hodges and wife, had been more than sufficient to have paid off any liability that was upon the property.

An amendment was allowed in the decree on page 163, which averred, that if the papers so executed by said Hodges and wife and by them delivered to Fleming H. Price for the Arnold Plantation, was not sufficient in substance and formalities of execution to constitute a deed which would operate to carry the legal title to the property, yet it was a sufficient paper writing, under the law and statute of frauds, to authorize a court of equity to require them to specifically perform the same.

It further avers that Mrs. Hodges died and left Asa Hodges her executor, and gave him all the estate.

The bill prayed that the deed, and will, be set up and established as one fraudulently suppressed, and that an account be had against the estate for the rents, crops, stock, etc., and for general relief; that the other property embraced in said trust deed be first subjected before that recourse be had on this Arnold Plantation. *The oath of defendant was expressly waived.*

Upon the filing of the bill in the chancery court, the cause was removed to the United States Circuit Court, and there, defendant Asa Hodges, individually and as executor of his wife's estate, filed an answer, averring that the property

was sold in 1872 to F. H. Price, and that under the foreclosure proceedings in 1877, his wife bought in the property for the balance of the purchase money due by F. H. Price, paying therefor $16,000. The answer admits that in February or March, 1880, the wife of defendant Asa Hodges caused a deed to be prepared from her to said Fleming H. Price for the consideration of $12,500, due, one-third on 1st day of January, 1881, 1882, 1883, respectively, such sale embracing twelve mules and one horse that were on the place. (Answer, record p. 14). It was also alleged therein that said F. H. Price refused this deed.

It denies that any deed or will was ever found in the black valise, or ever executed.

He admits taking the papers in said valise, but denies that there were any valuable papers therein.

The questions presented, are largely questions of fact, and we will now proceed to discuss the same.

It will be remembered that the bill being on oath, (an injunction bill,) the answer only makes an issue, and one witness will overturn it.

McLard v. Louisville, 10 Humphreys 163.
Trabue, Davis & Co., v. Turner, 10 Heiskell 447.

The plaintiff may waive an answer under oath and the answer will then be entitled to no more weight as evidence than the bill.

Thompson & Steger's Code of Tennessee No. 4317.
Lindsley v. James, 3 Coldwell, p. 487.

"If the complainant, in his bill, shall waive an answer on his oath, or shall only require an answer under oath

with regard to certain specified interrogatories, the answer of the defendant though under oath, except such part thereof as shall be directly responsive to such interrogatories, shall not be evidence in his favor, unless the cause be set down for hearing on bill and answer only." See

Rules of Practice in Equity No. 41.

Revised Statutes, sec. 858.

If we are correct in the principles above contended for, then the bill in its allegations can be sustained by one witness, or even corroborating circumstances. The issues presented are:

1st. Did F. H. Price have any deed or title papers for this Arnold Place, and did or not the same belong to him with the stock, crops and farming implements thereon, at the date of his death?

2d. Did or not said Hodges and wife hold the title thereto for said Price, he having fully paid for the same?

3d. Did or not said Price make a will, and were or not his title papers for this Arnold Place and his will obtained by said Hodges fraudulently and unlawfully after his death and by him suppressed or destroyed?

We respectfully submit that the proofs demonstrate all of these propositions to be as are contended for by complainants.

Now let us examine the facts.

I.

In the first place, the proofs show that F. H. Price lived on this place continuously from 1872 to November, 1880, though said Hodges himself, and by others, attempts to show that Price, after 1877, lived there as his manager at $30 to $40 per month.

The record (page 52) shows that on May 14, 1872, Asa Hodges sold this plantation to F. H. Price and W. R. Price for $30,000—$10,000 due January 1, 1873, $5,000 due January 1, 1874, $5,000 due January 1, 1875, $5,000 due January 1, 1876, $5,000 due January 1, 1877.

Afterwards, on —— day of August, 1874, W. R. Price sold his interest to F. H. Price, the deed showing a payment of $3,000 by the latter to the former, and also the payment of $5,000 of the purchase money notes above shown.

See record pp. 53–54.

The notes exhibited with the bill, show that only four of these $5,000 notes remained unpaid.

See record page 56.

And upon the first one there was a credit of $625.00, and the bill avers that all of the last one, except $796.24, was paid.

See Bill, par. 10, record page 49.

F. H. Price had then paid the first note.....	$10,000.00
Paid W. R. Price.....	3,000.00
Paid on note due July 1, 1874,	625.00
Paid all of last note for $5,000 except $796.24.....	4,203.76
	$17,828.76

This was and is the showing made by Mrs. Hodges' bill filed in 1876, showing that out of a debt of $30,000, Price had paid $17,828.76.

Now let us examine and see if any deed was ever executed and delivered to F. H. Price.

The answer of Hodges (record page 14) says:

"I think in February or March, 1880, she (his wife) caused a deed to be prepared, conveying said land from her to said Fleming upon the consideration that he would pay her the sum of $12,500, in three installments—one-third due January 1, 1881; one-third due January 1, 1882; one-third due January 1, 1883; bearing 6 per cent. interest from January 1, 1879, so as to meet my said wife's debt of about the same amount to St. John.

"There were then twelve mules and one horse on the farm, with farming equipments; these were to go with the land," etc.

Hodges says Price refused to take this deed; yet the proofs all show that he continued to live on that identical place and work it, kept house, Hodges says, for $30 to $40 per month wages.

Right here is it not a little singular that Price should have lived on this place from 1877 to 1880, three years, at $40 per month, as Hodges' overseer, and Hodges is not able to produce any contract or receipt from Price for payment made? The question is asked Hodges:

"Cross-Ques. 13. Please produce and file any contract for services, as manager of your wife's Arnold Place, you had with Fleming H. Price, and also receipts from him for

moneys paid to him by you or your wife as manager of the Arnold Place for the year in which he died, or any previous year."

"Ans. We had no written contract, and we have no receipts for money paid out."

"Cross-Ques. 14. Are you or not the executor of your own wife's estate, and have in your possession all of her papers?"

"Ans. Yes." See record page 113.

"Cross-Ques. 21. Did not F. H. Price live on the Arnold Place at date of his death? Did he not sleep there, keep house, etc.?"

"Ans. He did as manager, overseer and agent of my wife, C. S. T. Hodges."

"Cross-Ques. 22. How long had he been thus living there, keeping house, prior to date of his death?"

"Ans. He lived there as overseer from 1st of January, 1875, up to 12th of February, 1877, and then until he died as overseer and manager for C. S. T. Hodges."

See record 114.

Let us examine the proofs a little further, and see if he did refuse. Peters says: "She requested me to get her nephew, Price, to take the place and pay the debt to St. John, and relieve her of the trouble of it. I did so, and offered to prepare or *possibly prepared a deed* as proposed, but he declined to take it upon the terms proposed, and no deed was ever delivered, as far as I know or heard of."

See Answer 6, record page 39.

Hodges, in his deposition, record page 104, says: "My wife, in the spring of 1880, asked Judge Peters to write a deed to the Arnold Place for her, so she could let Price

buy it, and, in consideration of the deed, let him agree to pay the balance of the St. John mortgage debt, on any time that would suit said Price. *Judge Peters, I think, prepared the deed*, and asked Price if he would not take the land and pay the debt, and Price told him as well as he knew he would not."

Hodges and Peters both swear that Peters, in fact, by Mrs. Hodges' direction, offered the deed to Price. The court will bear it in mind that up to this time Price had paid about $18,000 on it, and was only to pay $12,500 more, according to their statements. Now, what became of this deed? Hodges says he cannot find it; don't know what became of it.

Let us see: In September, 1880, six weeks before Price's death, he then being in possession of this Arnold Place, keeping house there, told his sister "that he was then out of debt; that his property had always been so entangled with Uncle Asa Hodges' matters that he could not give me any help; but that he was now free, and what he had was his own, and that he intended to do something handsome for me that winter." "I said: 'Fleming, how much does your plantation yield?' He said: 'If the boll or some other worm does not interfere, I will make between 275 and 300 bales of cotton.' * * * I then told him I sometimes wished he had acted like Brother Willie—had put out from Uncle Asa's influence and set up for himself; gone clear off. He remarked that Brother Willie had acted very unwisely; that he worked very hard to pay for his place, and got in a passion and went off. That he felt he had worked too hard to tear off from Uncle Asa, and leave his property in his hands; that he had determined to

stay there until doomsday, until he got his property into his own hands and the papers fixed up; that Brother Willie had tried repeatedly to bring Uncle Asa to terms, and to get his property, and to get his papers fixed up, and that he could never do it, and that he saw that they could never live in the same country, and would have to separate. He said: 'He put me off from year to year, but I determined to stay with him to get my papers in my own hands.' I then remarked: 'Brother Fleming, I am afraid that you will at last come out at the little end of the horn after your work.' He then said: 'There is no danger of that; *I have all my own papers in my own hands in black and white;*' and that there was no danger of his being cheated."

See Answer 16, record 71–72.

"Ques. 17. Did you or not then understand from this interview that he owned and had the title for the plantation he was then working, and that the crop of that year belonged to him?"

"Ans. I did; and he told me he had one of the finest plantations in Crittenden county, Arkansas, and said, 'Sister, I wish you could go over and see it.'"

See record 72.

It will be remembered that the title, at the date of F. H. Price's death, stood in the name of Mrs. Caroline C. T. Hodges, wife of Asa Hodges, and at the time when Fleming Price made the statement above detailed to his sister, Mrs. Hodges also had an interview with his sister, in which she said: "She began to talk to me about my brother, and said he was one of the wealthiest young men in the county; that he had lived economically, and had worked hard for all he had, and that he had one of the finest plantations in

Crittenden county, giving me a description of it; and said poor Willie might have been in the same condition, but that he got mad and went off after working so hard."

See Answer 18, record 72.

Again, the day after the death of Fleming Price, the witness says: "After Mr. Cameron and Mr. Hodges had gone to Arkansas she talked to me about the property very freely. She then said that the Arnold tract belonged to my brother, and that he had willed it, giving two shares to me and the balance to his sisters and brother's little boys. She then said that my brother had promised to give Uncle Asa $5000 of that present crop of 1880 to pay a debt to the Arnolds—a matter I knew nothing about. She then said that she had said to Fleming three times that year: '*I want you to take your deeds and take care of them—the deeds to the property.*' I then said to her that my brother said to me in September last that he had his title in black and white, and she then remarked, '*Did not your Uncle Asa tell you* last night that Peters drew up the writing, *and that there was a deed to the property?*' And I told her that he did; and then said: 'Aunt Callie, I don't understand about that $5000, as I understood my brother to say he was out of debt, and that he only offered to you or his Uncle Asa the $5000 to help him out of a debt, for the love he had for him.' * * * She then said if I would go home and not trouble Uncle Asa, that he would see that the will was carried out to the letter."

See Answer 19, record pages 73–4.

Mrs. Cameron, in an interview when both Mr. and Mrs. Hodges were present, said: "Our Uncle Asa talked very frequently about the property; *said that the property was*

my brother's, and that he had willed it (but it was a verbal will)—two shares to me, and one share each to my sisters, and one share to my brother's little children; that he willed his watch to Aunt Callie (Mrs. Hodges); that he had willed one pistol to Mr. Maddock and Mr. Hodges. * * * * * Uncle Asa said my brother was out of debt, except doctors' bills and funeral expenses, and a little account down at the store, he thought about $25. He said Fleming had plenty of stock to run the place, wagons, etc.; *that Fleming's mules* were much better than his because he took better care of them than he did. * * * Aunt Callie was present when Uncle Asa was talking, and confirmed what he said, and would occasionally put in; for instance, Uncle Asa remarked that the deeds *were all fixed up and my aunt had the deeds*, and I then said, 'Uncle, what obligation was my brother under to give you $5000 out of the year's crop?' and he said, 'None in the world, except the love he had for me; he wanted to help me to pay the debt.' I said, 'My brother said to me he was out of debt;' and he said, 'Did your brother talk to you about his business?' and I said, 'He certainly did;' *that he told me that he had his papers in black and white; and Uncle Asa said, 'And so he did;'* that Peters drew up the papers, and that she, Callie Hodges, had offered them to him that year; and Aunt Callie then remarked, 'Yes, three times that year.' This was the substance of what occurred that night, except that he said the property was a fortune to us; that it was valuable, and never intimated but that it was my brother's property."

See Answer 20, record pages 74–75.

In July or August, 1882,—nearly two years after the former interview—in Memphis, in the presence of Mrs.

Barton, defendant Asa Hodges said to Mrs. Cameron: "If you will not harass and annoy me, I may turn it over to you this year." * * * "I then remarked that she (Mrs. Hodges) had told me and Mr. Hargus that *she had made a deed to the property to my brother, and that Peters had drawn it; and Uncle Asa then said that she did offer him the deed, and that he refused to take it;* that he did not want to be troubled with it, and that he was very dissipated in his habits, and would run through the properties in twelve months."

See Answer 21, record page 76.

Mrs. Cameron is corroborated by Mrs. Barton, who gave her deposition in December, 1882, and says: "Last summer—the date it occurred I have forgotten—I heard a conversation between Mrs. Cameron and Mr. Asa Hodges, on Shelby street, Memphis, Tenn. * * * I remember one thing that purported to be the theme of their conversation, and that was, that Mr. Hodges told Mrs. Cameron that his wife *had offered a deed to the property to Mr. F. H. Price, but he said he did not want to take it; that he was so dissipated that he would run through it in twelve months.*"

See her Deposition, record 65.

Mrs. Cameron's deposition is corroborated throughout by the Rev. J. D. Cameron, who was with her.

Question 9 to him is: "Do you know what said Price left? If so, state it, and from what source you got your information."

"Ans. *I learned from Judge Hodges, after he came home on that night, that he owned a plantation of about 600 acres,*

with horses and stock enough to run it; a saddle horse and a gold watch."

Record page 78.

"Ques. 10. What night was it that you refer to, and how came he to speak of the property? What farm did he refer to, and who was present?"

"Ans. It was on the night of the 3d of November, 1880. He referred to his having willed the property to his sister and brother's children; that he gave his sister, Mrs. Cameron, two shares, and the balance to his brothers and sisters and children of a deceased brother. *He spoke of the value of the land; that it was a fortune to us;* that each acre was worth a $50 United States bond. Judge Hodges and his wife, Mrs. C. S. T. Hodges, and myself and wife were present. He spoke of having offered the deed twice to Fleming that year, and his wife said three times, and he had declined, for reasons I did not get or understand. He stated that there was a mortgage on the property to secure $15,000, due by Judge Hodges; that *Price had paid $5000 out of the preceding crop*, and that the negroes said the present was better than that of the year before. * * * * Mrs. Cameron asked him under what obligation her brother was to pay off that mortgage. He said none whatever, but had consented to do it for the pure love he had for him. He then spoke of Fleming's kindness to him, and stated he was indebted to him for everything he (Hodges) owned. Mrs. Hodges was present, consenting to all he said, entering into the conversation from time to time."

See record 78–79.

The conversation took place in Memphis, and the question is then asked:

"Ques. 11. Did you go over to Arkansas the next day? If so, who was present, and what was your object in going there?"

"Ans. *I did, at Judge Hodges' suggestion, he accompanying me to see the place and the stock on it.*"

See record page 79.

"Ques. 12. What place did he show, and what did he say about it?"

"Ans. He showed me the Arnold Place, and in passing that place he remarked that he 'would rather own one acre of it than a United States bond.' He also showed me some stock—one or two horses that belonged to the place, and called my attention to the gin-house, that was in a bad state of repair." * * *

See record page 79.

"Ques. 13. In that interview had with Hodges and his wife, and in your presence and that of your wife, did or not said Hodges and wife admit that the Arnold Place belonged to Price, or did they designate any particular land for him? Was it designated or referred to by them?"

"Ans. It was the land upon which Price died, and I could not say that they designated it by the Arnold tract; but they said it was the place he died on, and it contained about 600 acres."

See record 79–80.

"Ques. 14. Can you be mistaken as to this conversation, particularly as to the facts detailed in reference to the trust deed thereon and Price's agreement to pay it?"

"Ans. *I would say I could not, sir. It never entered into my mind once that it was not Price's property.*"

Record page 80.

William Hargus also corroborates Mr. and Mrs. Cameron in their statements. He is asked—

"Ques. 2. Did you or not ever have any interviews with the defendant, Asa Hodges, or his wife, during either of these visits? If yea, what was said by either of them in reference to F. H. Price or his property?"

"Ans. I met neither of them on either occasion, and I went to the residence of Col. Hodges in this city (Memphis) after my last visit to Arkansas for the purpose of having an interview with Col. Hodges and his wife, and found the Colonel absent from home. Had some conversation with Mrs. Hodges regarding the property. When I mentioned the business upon which I called, Mrs. Hodges asked me if I was a lawyer; I told her I was not, simply a friend of Mrs. Cameron; she said if I was a lawyer she would not be interviewed on the subject. After learning that I was not a lawyer, she talked rather freely. I told her I called to see her and husband about the property—I can't state the exact words, but the subject and substance of my inquiry and reply—said to her that Mrs. Cameron was anxious to have the property turned over, and wanted to know if she intended, and when, to turn over the property to Mr. Price's heirs?

"She said she intended at some future time, but not then. She said that some indebtedness, $5,000, as I now remember it, in which she said Mr. Price and Mrs. Hodges were equally interested, and said that Mr. Price had bought some mules, probably four head, for which he owed for to some merchants in this city; said they felt legally and morally bound to pay these debts, and therefore they intended to retain the property and pay them out; that was the substance of that.

"I asked her in connection with that, if Price had a deed for that property, *and she said not; that she and her husband had tendered him a deed twice, would say that year, and he had neglected or refused to take the deed*, as he had implicit confidence in her and her husband. She said that after the death of Mr. Price, Mr. Hodges insisted upon giving up the property to the heirs of Price, and not be encumbered with it; she objected for the reason aforesaid, to-wit: the debts they would have to pay."

See Hargus' Deposition, Ques. & Ans. 2, record 66–7.

J. F. Dowdy, another witness, also corroborates the statements of Mr. and Mrs. Cameron; he says:

"I heard his wife, Mrs. C. S. T. Hodges, say, a few days after the death of *Fleming H. Price, that he made a will.* I had an office in Memphis, opposite the landing place of the boat that travels from Mound City to Memphis. One morning I met Mrs. Hodges on the street opposite my office; she asked me if I had heard of Fleming Price's death; I replied no; she then told me that he died the day before. *She told me that he had had much trouble about his papers and getting his will made, but at last he got his will made and his papers all right, and died satisfied.*"

See Ques. and Ans. 5, record 143–4.

R. L. Munroe, a witness entirely disconnected, and without interest in the law suit, is asked:

"Ques. 3. State what, if anything, you know as to Fleming H. Price owning, or acquiring title from Asa Hodges or his wife to the plantation in Crittenden county, Arkansas, known as the 'Arnold Place.' State all you know about it."

"Ans. Know nothing more than I was asked to sign a deed as a witness drawn up by Judge Peters from Asa Hodges to Fleming H. Price. *Judge Hodges said at the time that it was a deed from him and his wife to Fleming H. Price for the place he, Price, lived on.* After signing the deed as a witness, I handed it back to Judge Hodges and he handed it to Fleming H. Price. This occurred at the gin, near Judge Hodges' residence, in Crittenden county, Arkansas; it occurred sometime in the month of January, 1880. I know this, for I was on the place from 5th January, 1880, until some time in March."

"Ques. 4. Whose names were signed to the deed at the time you were called to witness it?"

"Ans. As well as I can remember, the names of Asa Hodges and wife were signed to the deed."

"Ques. 7. State in whose possession you last saw the deed, you say you had witnessed."

"Ans. *In the possession of Fleming H. Price.*"

See record page 131.

Can there be any doubt about a deed having been executed and delivered to Price? One was certainly drawn and executed. This is conceded. Does Hodges deny that he delivered it in the presence of Munroe? Munroe swears so positively. Mr. and Mrs. Cameron and Mrs. Barton also so swear, and though Hodges is interrogated, he never anywhere denies the conversations with these witnesses, or attempts to explain them. He entirely fails to show any contract or payment to Price, as manager for the three years he says he was overseer, though he produces all papers he thinks material, but can't find or account for the deed. He swears that Price only had a horse and watch,

and yet he carries Dr. Cameron from Memphis to the "Arnold Place," thirteen miles, simply to let him ride over it. Not that he has any interest in it, but just wants him to ride over it. Why not ride over the Home Place, the Peters Place, or any other plantation? Why go to the other proofs in the record if Mr. Hodges, the owner of the property, and who necessarily knows all about it, admits the fact to be as these witnesses have testified? What is the use of going to the negro testimony in the record, or any other proof, until Mr. Hodges, who made all of these admissions and who knows all the facts, controverts by his own testimony, the admission of Price's ownership?

The record shows that he was present in person and by counsel when the depositions of Cameron and wife, Hargus and Mrs. Barton were taken, and he declined to cross-examine. *Of course, whatever may have been the ideas of outside parties, Hodges and his wife knew exactly how this title stood; they knew whether he owned it or not.*

Now, let us see what evidence there is to overturn this testimony. The first witness is Thomas M. Peters, Hodges' lawyer, and a man who had been living with Hodges for years without expense or paying board, and has been his witness in every lawsuit he has had; is his handy man, and who is always on hand at the proper time and place, and testifies what is necessary.

It is admitted that he swears that Price told him he had no interest in the case. In making inquiry of Hodges on the question as to who this witness is, the question is asked him:

"Cross-Ques. 6. Has he (Peters) not been your main

witness in all the important lawsuits against you for years past? Did he not testify in your suits at Little Rock, in the St. John v. Hodges suit, and the suit of Dowdy against you and your wife at Helena, Ark.; the suit of Daniel Hughes against you and your wife's estate, and also in your bankrupt suit at Fort Smith, Ark.? Please state in what other suits he has been your main witness."

"Ans. He was my law partner, and since has been my attorney; in matters regarding papers prepared or business transacted by him, he has been called to testify when deemed necessary. I believe he was a witness in all the cases you have mentioned."

An examination of this man's testimony justifies the criticism made of it. He gives his deposition on November 7th, 1882. (See record 38 to 46). And after the depositions of Cameron and wife and others are given, he again appears on the witness stand on the 26th of December, 1882, in order to contradict, as far as possible, their depositions; and the question is asked him, on cross-examination, and in answer he says: "Since giving my former deposition, I have read the depositions of Mr. Cameron and wife, taken and filed in this cause."

An examination of his evidence in the light of these circumstances does not materially weaken the case as made by complainants, as he nowhere controverts the main points relied on, to-wit, the declarations and admissions of Hodges and wife as to Price's ownership; *while he admits the preparation of the deed, and the fact that Hodges did get Price's valuable papers.*

The next witness is Willie Campbell (a negro on the

place). An examination of his testimony will show that it amounts to nothing, as his conversation with Price, when sifted down, will bear no such interpretation as is contended for.

See record pages 86 and 87.

The next witness, Coote Knox (a negro), only speaks of his last sickness, his will and papers. On cross-examination, she says: "Upon being refreshed, I do now remember to have had a conversation with a gentleman (whose name I did not then and do not now know), at some place, in which I said that Mr. Price, on the day of his death, said that he wanted his brother-in-law to have his watch, and, when his debts were paid, he also wanted his sister to have the balance of his property."

See record 89.

Perry Arnold, the next witness (and who is a colored man), says: "*I never had any conversation with Price as to the ownership of the place*, except that he told me it was his Aunt Caroline's place, and that he was only managing it for her. He did not tell me what he was getting or had hired for, but only said he was bossing the place for his Aunt Caroline. *He told me these things a year before he died.*"

See record 89.

And on page 90, on cross-examination, he says: "Mr. Price told me he was only hired on the place that the judge furnished him; this he told me *the year before* he died. He said he wanted his Aunt Caroline to have his watch; his brother-in-law to have his horse, bridle and saddle, and *his younger sister to have the balance of his property; what*

that was I do not know, as he did not state. There was a good crop of cotton and corn raised on the place that year—*at least 600 bushels to his (Price's) part.*"

Dougherty, the next witness, says: "About *1878 or '79*, I had a conversation with Fleming Price, in which he told me that he was managing the Arnold Place, in Crittenden county, Arkansas, for his Aunt Caroline, and had no interest in it. I had another conversation with him in 1879 or 1880 about going to Texas, in which he said that if he could wind up his business here he would go with me."

See record 90.

It will be noticed that this witness limits and confines the statements of Price to 1878 or 1879, when the deed from Mrs. Hodges to Price by all the proofs is shown to have been made and delivered in the year 1880.

The next witness is Mr. Maddox, who simply details the facts in regard to the death of Mr. Price and the disposition of his papers, and his deposition cuts very little figure in the case. It appears on pages 94 to 97, inclusive.

W. F. Hardin is the next witness, and he testifies as follows:

"I had several conversations with Fleming Price in regard to his title to the Arnold Place. The last conversation I had with Price was about one week before he died. He said he wanted to buy my store on the fifteen-mile bayou or the eighty acres I had on the Nesbit Place, saying he was tired staying on the Arnold Place doing nothing, and that if he could not get my store, he was going to Texas; that the Arnold Place had involved him in trouble ever since he had been there; that his brother William was

always drinking, and Dougherty had forced him to take the bankrupt law, and he was sorry he had come to Arkansas; that if he ever left here and made anything, the people he bankrupted on would always be after it; and that if I would rent him the corner store, he would quit and go to it, *as soon as he got what was coming to him*, saying, Will, you know I have got nothing here and no interest in this country; that your brother Dick, my only companion, is dead, and I am going to leave as soon as I can, if I don't get the corner store."

On cross-examination, he says: "I am the administrator of F. H. Price. Peter Dougherty and I looked over Fleming Price's papers at Mr. Asa Hodges' about eighteen months or two years after Price's death; they are there now. * * * F. H. Price had been in possession of the Arnold Place ever since his purchase in 1872 or 1873. * * * I considered Price a man of truth and integrity, and I also knew Mrs. Hodges, and would believe anything she stated as to how she held this property as far as she knew; she was truthful."

See record p. 97–8.

This deposition, it will be noticed, is very vague and indefinite as to the admissions and declarations of Mr. Price, and this witness is subject to the same criticism that is made as to Judge Peters, he being largely the main witness in the extensive litigation that Judge Hodges has had.

Judge Hodges, in answer to the question, "Was he (Hardin) not a witness for you in your bankruptcy case and in the case of St. John against you, reported in our Supreme Court reports, and is he not a witness for you in

the case of Hughes' estate against you now pending in the courts of Arkansas?" says: "He was not a witness in the St. John case and don't think he is in the Hughes case, he may be, but I don't recollect how this is. I don't remember about his being in the St. John case, but he may have been." Record p. 115.

The next witness is James B. Cartwright, who says:

"I *never heard him* (Price) *say positively who the land belonged to, but he spoke of everything as belonging to Judge Hodges and being controlled by him and as if he was doing business for him.*"

"Ques. 5. Did he claim to own any property then, if so, what?"

"Ans. He claimed to own a horse, the only thing that I heard him speak of as his own."

See record page 135.

On cross-examination, he is asked—

"Cross-Ques. 7. When did the conversation as to Price's property or for whom he was acting, take place—in 1876, 1877, 1878, 1879, or 1880?"

"Ans. He spoke several times about it, but never said particularly who the property belonged to, but spoke of it as Judge Hodges controlling everything, the first time I was over there, in 1879."

"Cross-Ques. 14. How did Price come to talk about the property or its ownership?"

"Ans. "*He never talked about the ownership of it, he just talked abont the management of it*, and talked as if his Uncle Asa controlled everything; *as to his talking about the ownership of the property with me, we did no such a thing.*"

See record page 136.

This witness is asked the following question:

"Cross-Ques. 15. Do you or not, know the general character of Asa Hodges, in his neighborhood in which he lives, for integrity and veracity?"

"Ans. He is like everybody else, he has parties who live near him who think he is honest, *and many others* who think he is dishonest, and, as a neighbor, he stood well with everyone; this is what I have heard people say; this is all I can say about his general character."

"Cross-Ques. 16. Do you know Mr. W. D. Hardin, formerly Sheriff of Crittenden county?"

"Ans. I know him when I see him."

"Cross-Ques. 17. Do you know his general character for truth and veracity amongst his neighbors and acquaintances?"

"Ans. I know very little about Mr. Hardin in any way; I don't know how he stands in Crittenden county; he is just like Judge Hodges, some say he is good and some bad, and I know nothing of him personally; have never had any dealings with him."

And, on re-examination, the question is asked--

"In referring to the character of Mr. Hodges and Mr. Hardin, do you mean that some regard them as shrewd, sharp men, who deal skillfully, or, how much does your deposition imply?"

Ans. "Some regard them as good men, *and some bad.*"

See record page 137.

This witness is the nephew of Asa Hodges, and we submit, his deposition, detailing as it does the mere remembrances of a conversation in which the titles to the land were not involved or discussed, is entitled to very little consideration.

The next witness introduced is R. H. Seale, who testifies and attempts to break the force of the deposition of Mr. Munroe; he says:

"I am well acquainted with R. L. Munroe, and he had several conversations with me in reference to a deed from said defendant and wife of the Arnold Place to Fleming Price, deceased, and from these several conversations I was induced to write to him to learn what he correctly knew about the matter, and in the answer I got from him, he stated in his letter, that if there was any money in it, he would come over and give me the information. He also stated that he was the man that could prove the deed, and that if he knew where Mrs. Cameron was, he would go to see her. I have lost or misplaced the letter that contained the above statement; I have diligently searched for it, but have not found it."

"Ques. 3. From your conversations and correspondence with him, did you understand that he knew anything of Price's having a deed for the Arnold Place, or of his alleged ownership of it or not?"

"Ans. *I was led to believe* from the several conversations and by the letter of Mr. Munroe, if he could get big pay, he knew enough to gain the land for the plaintiff, but if there was no money for him in the transaction, then he did not want to testify or know anything. *I don't think that I was mistaken in the conclusion that I came to*, for I talked to him several times, and wrote to him to learn what he knew, and the impression he made on me was, that he wanted money, and he believed he could get it, if he could see the plaintiffs."

See record pages 147–8.

This witness is very unfortunate in not producing so important a letter; he shows clearly that Munroe knew all about the delivery of this deed and could establish it beyond peradventure. He says, "*I was led to believe*" and "*don't think that I was mistaken in the conclusion that I came to,*" that what Munroe wanted was money. *This is a mere surmise of his;* he shows, however, conclusively, that Munroe knew of and could prove the execution and delivery of this deed, and his testimony is strongly corroborative of Mr. Munroe's, who in his deposition expressly states that he spoke of and told Mr. Seale and R. F. Crittenden of the delivery of this deed to Mr. Price.

See Munroe's Deposition, record page 133.

Attention is particularly called to the deposition of this man Seale. He says he had several conversations with Munroe, and in order to know "*what he correctly knew about the matter, I was induced to write to him.*"

Why did he take so much interest as to have had several conversations with this witness, and *who induced* him to write? He took a singular interest in the matter, and *inducements extraordinary were no doubt offered him,* and after all the trouble, and he got the letter, he lost it, and gives the court his conclusions as to the objects of Munroe in desiring to testify. *He nowhere states that Munroe did not admit full knowledge of the execution and delivery of the deed to Price,* but says from the contents of such letter, "*I was led to believe*" and "*don't think I was mistaken in the conclusion that I came to*" that what Munroe wanted was money. Is not this deposition a little singular in its details? Do disinterested witnesses act this way? Do they get the desired data, and then lose it? How unfortunate

the defendant is in losing all the written data that would have so conclusive a bearing on his cause and have to rely upon the unstable and unreliable memory of witnesses *who have so little interest in his affairs.*

If this were not so, how easily could Mr. Hodges have proven by Major Crittenden that Munroe did not so state to him, as this record shows that this same Crittenden, to whom Munroe also detailed the fact of the delivery of this deed, was the commissioner who took most of the testimony in this case. The depositions of Cameron and wife taken in this cause, or rather the letters written by them, which appear on pages 160 and 161, and which, by agreement of counsel, are to be used as their depositions, show as follows: "As to R. L. Munroe, I never heard of him till you wrote us you were going to take his deposition; have never heard of him at all except through yourselves; never saw him in my life, and there has never a word of communication passed between us, either written, spoken or otherwise."

See record 160.

The effort of defendant to besmirch and destroy the character of Dr. Cameron and his wife, by imputing to them falsehood, and an attempt to suborn and bribe the witness Munroe, is not surprising. The character of both of these parties, as well as that of Wm. Hargus, is shown to be above reproach.

Addison Craft, in speaking of the general character of these persons, says: "I know that Rev. J. D. Cameron was generally esteemed as a minister of ability, faithful and laborious in his field of labor—whose purity of life was unquestioned, and whose word was as good as his bond.

I know that Mrs. Cameron, his wife, was notoriously devoted to her church and her family, and was regarded as a shining light as a Christian matron. I know Capt. Wm. Hargus stood well as an industrious, active citizen of the town—whose integrity I never heard called in question. I should certainly believe any statements made by above parties under oath; speaking from my own knowledge and from their general reputation in the community."

See record 83.

To same effect, see depositions of W. S. Featherston, L. S. Scruggs and James T. Fant, record pages 82–83–84.

If Munroe had not told R. F. Crittenden, as he says he did, about the execution and delivery of this deed, how important would it have been to have shown this fact? It would have been a clear contradiction by a disinterested witness, and one that would have materially weakened if not destroyed Munroe's testimony. He swears he told Seale about it, and Seale fully corroborates him. Who is there to contradict his statement? Hodges is as silent as the grave. He hunts up Seale to try and throw dirt on Munroe, but he himself never enters a denial. Would he not have denied it if it was untrue? He never denied the conversations, declarations and admissions made by himself and wife to Mr. and Mrs. Cameron and Mrs. Barton, all of which were material and vital to his defense, but attempts to prove by his professional witnesses, Peters and Hardin, Price's declarations, and introduces a large number of negro witnesses, whose testimony is exceedingly incredible and improbable.

The next witness for the defense is Mary J. Phillips, a sister of defendant Hodges, and she is asked:

"Ques. 18. Was or not F. H. Price living on the Arnold Place, cultivating it at the date of his death, and did he or not claim to own it, with all the stock, wagons, etc., thereon?"

"Ans. He was living on the Arnold Place, but how their matters stood I do not know; I never heard either say."

See record 140.

Her deposition is a mere disclaimer of any knowledge, and throws little light on the subject.

The next deposition is that of Julia Chapman. She is a negro, and says:

"Ans. 2d. I was familiar with all of Mr. Price's business, as I lived with him three or four years before his death, and there was nothing that transpired about his business (domestic matters) but what he communicated to me."

And in answer to Third Interrogatory she says: "I was *familiar with every paper in the satchel, and with the papers that Judge Hodges took away with him, and had often read and examined them.* * * * There were no deeds of any kind for land or anything else in the lot of papers taken away by Judge Hodges."

See record 150.

In answer to Fourth Interrogatory, she says: "Mr. Price told me, just before he was taken sick, that he had no deeds to the Arnold Place, and that his aunt had sent him a deed to the place if he would pay the St. John debt; that he would not take a deed for the place he was then living on."

See record 150–1.

We submit that this is a remarkable statement. Here you are asked to believe that Price tells his negro cook all of his private business and business transactions, and exhibits to her all of his deeds and title papers. She says: "*There was nothing that transpired about his business* (domestic matters) *but what he communicated to me.*" And she says she "examined and read over all of his private papers;" and, stranger than all of this, she says that Price told her, just before he was taken sick, that Mrs. Hodges had tendered him a deed to this Arnold Place, and that he refused it.

The reading of this deposition is sufficient to refute its own statements. It is so improbable as not to merit any consideration; and it must appear to this court, as it does to counsel, that it is a clear fabrication, and that it is the product of the great Asa, the skillful manipulator.

The last witness is James M. Hodges, a nephew of Asa Hodges, and he, like defendant's other witnesses, knows very little about the ownership of the Arnold Place. All that he says in regard to it is in the latter clause of answer to Fourth Interrogatory, where he says: "Never heard him (Price) or Mrs. Hodges speak of it." [That is, the sale from her to Price.] "He occupied the place as manager, for wages, when he died."

See record 155.

A careful reading of his deposition shows his refusal to answer cross-interrogatories propounded, and his whole deposition is evasive all the way through, showing a partisanship that is disgusting, and destroys his testimony entirely.

This is all the proof on the subject of the ownership of the property by Price, and the court must determine therefrom how the fact is.

We respectfully submit that it will have little difficulty in finding the deed was not only executed, but delivered to Price in 1880. That one was executed and offered is admitted. Peters and Hodges are both lawyers, and they know what a deed is. Munroe says Hodges and wife's names were signed to it, and Hodges told him it was a deed from himself and wife to Price for the property Price lived on, which all the proof shows was the Arnold Place. Hodges does not produce the deed, at least fails to do so. If it had the conditions that Price was to pay $15,000 to St. John as the consideration for it, don't you suppose it would be forthcoming? Munroe is asked: "If you say you ever told anybody about the delivery of this deed, name them;" and he names Seale and R. F. Crittenden. The former is introduced by Hodges, and says he (Munroe) "not only told him so, but wrote him a letter to that effect." That letter, like the deed, is, unfortunately, lost.

R. F. Crittenden could have disproved Munroe's statements, if the fact was that Munroe did not tell him about the deed. How important this proof, as Crittenden was entirely disinterested, and his testimony, while not competent for complainants, would have been a Waterloo to them, as it would have broken down the only witness to the delivery of the deed.

Was it overlooked? Can the court conjecture such an oversight on the part of the learned lawyer who prepared and conducts this case? Hodges' counsel, on cross-examination, asked Munroe particularly if he did not tell

R. F. Crittenden about the execution and delivery of this deed, and he says he told both him and Seale. Seale testifies, and fully confirms Munroe's statement, and Crittenden, as commissioner, takes the bulk of Hodges' proof, but is never examined.

But the oversight does not end here. Peters says he prepared the deed to be delivered by Mrs. Hodges to Price in February or March, 1880. Hodges admits the same thing, and Munroe says he was only there from January 5th, 1880, to March, 1880, and it was during this time that the deed was delivered. He is thus corroborated by both Hodges and Peters. Does Hodges deny this statement of Munroe and the facts detailed by him? If so, where is the proof? If it was not as Munroe stated, where is the denial by Hodges? If Hodges had Price there as an overseer for three years on wages, where is the proof of the fact? Where is the contract and evidence of payment of such wages? Is it not strange that no such evidences are introduced? If they in fact existed, could they not be shown? If Hodges owned and run the Arnold Plantation, is it not singular, with all of his own and Price's papers, he cannot produce some written evidence thereof—contract with hands, payment of bills, and expenses? We have no papers and know nothing of their whereabouts, except that Hodges took all, not only in the little black valise, but in the trunk also.

These facts taken in connection with the admissions of Hodges and wife to Cameron and wife, Hargus and Mrs. Barton as to Price's ownership of the Arnold Place, and Hodges not denying the same, are proofs more potent and irresistible than all the testimony offered by the defendant.

How can and does Hodges explain, and can the court reconcile the fact that Hodges took Cameron from Memphis to the Arnold Place, a distance of thirteen miles, simply to see a plantation in which he had no interest?

These facts are conclusive in themselves. They outweigh a thousand denials; they are the acts of the parties at the time, not of children, but middle-aged men, in regard to a business matter then in hand, and these acts coupled with the statements sworn to, are and can only be reconciled with the views contended for by complainants.

II.

This second proposition is, that Hodges and wife held the title to this property for said Price, he having fully paid for the same.

This is so elaborately discussed in the foregoing part of this brief, that we will simply refer to the points.

Hodges and wife in their admissions to Mrs. Cameron and her husband, Mrs. Barton and Mr. Hargus, admit the facts that Price owned the place, had fully paid for it, and was out of debt, and that Mrs. Hodges had offered the deed three times that year to Price, and he told her to keep the deeds for him, that he was so dissipated.

These facts are overwhelmingly proven by these witnesses, and although Hodges' attention is called to them, he never contradicts them.

III.

This proposition is, that this deed and will of Price were obtained by Hodges when he got Price's papers, and were fraudulently suppressed or destroyed by Hodges. Did Price have any valuable papers, and did Asa Hodges get them? He admits getting all that he had, and the proofs also clearly show this.

The question is asked Asa Hodges—

"Ques. 6. What became of his (Price's) papers, account books, etc., if he had any—did you personally examine them?"

"Ans. When I went up to the Arnold Place after I heard of the death of Price, I told my nephew Jimmy Hodges to get me the books Mr. Price kept the accounts of the hands in, and put them in the buggy, stating that I did not want them left there without the care of any white person, as he and I would go with the corpse to Memphis, and he brought out or sent out a trunk containing his books and papers, and it was too large to carry in the buggy, so I put the account books in the buggy and emptied *his papers* in a pillow-slip and carried them home and put them in my room and kept them there till his brother-in-law came over and examined them all in person. I made no examination of the papers myself."

See his Deposition, record page 102.

Now, Peters being questioned on this subject, says—

"Ques. 23. Did Asa Hodges show you, the day of Fleming Price's death or shortly thereafter, a lot of private papers of Fleming Price's, which were in his possession at the time of his death?"

"Ans. He brought home a lot of papers *which he said were Price's private papers;* he put them in the room he occupied, but I paid no further attention to them. He never showed them to me. I don't remember what the papers were in, but think they were in a cloth bag of dirty color, but had been white."

"Ques. 24. What became of these papers?"

"Ans. I think they are now in my room on said home place, at least they were there when I left last Sunday. I do not know they are the same papers, but Asa Hodges told me they were."

"Ques. 25. How long after the death of Fleming Price did you first see Asa Hodges with the bag of papers, that he said were Fleming Price's?"

"Ans. I do not think I saw him with the papers. He told me they were in his room. I think he told me this after Price's burial. It was a month or more after that, before my attention was called to these papers being in my room."

See record pages 42–3.

If Messrs. Hodges and Peters are to be believed, Mr. Price had some private papers, and Mr. Hodges got them.

Hargus, who had an interview with Mrs. Hodges within ten days after the death of Price, says: "I asked in regard to Price's papers. *She stated that Col. Hodges had brought a bag of papers—I think that was the word she used—from Price's place;* and that she kept them in her bed room—regarded them as very valuable—and on the night before she had slept with this bag of papers under her head, as there had been an alarm of fire the night previous."

See his Deposition, record page 67.

This interview occurred in Memphis, where this bag of papers was, and not the papers that still remain in Peters' room.

J. D. Cameron, in reply to question 15, "Did you ever make any investigation into the papers of F. H. Price? If so, where, who furnished you the papers, and what did you see, and when was it they were examined by you?" says:

"After the interview with James Hodges—after supper on the night of the 4th day of November, 1880,—after we had visited the Arnold Place that afternoon, I asked Judge to let me see the papers of F. H. Price, and he told James to get a little black valise. I found the valise unlocked, and the papers utterly worthless. I don't remember, except some account sales of cotton lying around loose; I don't remember seeing other papers in there."

"Ques. 16. Did you see any title papers, will, or other valuable papers there?"

"Ans. I did not."

"Ques. 17. Were any papers shown in a paper or cloth bag?"

"Ans. No, sir."

See record page 80.

It thus appears that no papers in anything but the small black valise were ever shown to Dr. Cameron, while it is clearly shown by Peters that Hodges got Price's valuable papers, and Mrs. Hodges told Hargus that the papers that Hodges got from Price's place, containing the valuable papers, were delivered to her, and she had them in Memphis. This fact is proven by defendants themselves, and on this point it seems to us perfectly manifest, not only

that Hodges got these papers and has made away with them, but imposed an outrageous fraud on Dr. Cameron when he handed to him, or directed Hodges to hand him, the black valise containing the worthless papers spoken about, when he himself had in his possession the papers about which Dr. Cameron made inquiry and desired to inspect. Why hand him this black valise, if he had all the valuable papers in a cloth bag? If there were no valuable papers in the bag, why not show them to Cameron?

Great stress was laid in the court below on the letter written by Mrs. Cameron on the 4th of November, 1880, to her Uncle Asa Hodges (it appears in the record at page 111); and it was sought therein to make this weigh heavily against the complainants.

This letter shows on its face that it was an offer for a compromise, which was rejected, as shown by Hodges himself. Dr. Cameron fully explains it, on page 81, as follows:

"Rev. J. D. Cameron says that, in conversation with Hodges, he (Hodges) stated that the plantation belonged to Fleming Price, but that Price, in order to accommodate him, had executed, or allowed to be executed, the mortgage for $15,000; that Price had paid $5000 on the debt out of the crop of 1879, and that he thought the crop of the next two years would pay off the balance; and he also stated that if Mrs. Cameron would allow him to retain the possession of the property until the debt was paid, he would enter into a written obligation to deliver the place, in its then condition, when that was done; *that, not knowing how the facts were in regard to said mortgage, and having no means*

of information, purely to avoid the expense, trouble and delay of a lawsuit, and in a spirit of compromise, they (the Camerons) agreed to accept his statement in regard to the mortgage upon the idea and believing that the balance would be paid out of the crops of the next two years, and agreed to accept Hodges' proposition, and allow him to remain in possession, upon the express condition that he gave the proposed written obligation."

"This letter, dated November 4th, 1880, was written to convey their willingness to accept the proposition and to get from him the obligation. It was written in the spirit of compromise, accepting a proposition already made by Hodges, which he failed to carry out; and did not and was not intended to acknowledge the truth of the statements or his right to the property.

"November 15, 1883."

See record 81.

This letter or statement, it is agreed, shall be used as his deposition.

See Stipulation of Counsel, record page 81.

We have discussed the facts of this case at great length, and have cited and quoted largely from the testimony bearing on the issues that must necessarily control the case, as, in the views we have taken, it is largely a question of fact, and, in conclusion, beg leave to recur to the following established facts as strongly supporting, if not conclusive of, our view of the case:

First—Price's possession of the place at the date of his death.

Second—Price's declarations to his sister, in September, 1880, six weeks before his death, of his ownership of the

plantation, stock, etc., he being in possession of the property at the time, and claiming to have a deed therefor.

Third—Hodges' failure to show by any sufficient written evidence that Price was his overseer, on wages, or that he paid for the stock, and expenses of making the crop or running the place.

Fourth—Mrs. Hodges' admissions to Mr. and Mrs. Cameron of Price's ownership of the farm, stock, crops, and farming utensils, and his being a wealthy young man, free from debt.

Fifth—Asa Hodges' admissions to Mr. and Mrs. Cameron and Mrs. Barton, of Price's ownership of the property, as detailed by them, and his failure to deny or explain same.

Sixth—Munroe's proof of the delivery of the deed to Price by Hodges, in his presence, in January or February, 1880.

Seventh—The admissions by Peters and Hodges that a deed was drawn at that time and offered to Price.

Eighth—The fact that Hodges does not deny Munroe's statements as to the delivery of this deed.

Ninth—The corroboration of Munroe's statement by Seale, as to his having told him about the deed being delivered by Hodges to Price.

Tenth—The failure to contradict Munroe's statements by Crittenden, if such could be done.

Eleventh—The fact that Hodges carried Dr. Cameron from Memphis to the Arnold Place, a distance of thirteen

miles, to look at it, and the stock thereon; such being done only on the hypothesis that he (Cameron) had some interest therein.

Twelfth—The fact so clearly proven that Hodges took possession, and has suppressed the private papers of Price, and refuses to produce or account for them, and the necessary presumption that arises on their non-production, to-wit, that they are antagonistic to the interest of the party who refuses to produce the same.

LAW OF THE CASE.

We will now present a few principles of law which, in our opinion, are pertinent to the matters under investigation; and these arise mainly on the questions of the suppression of testimony, and the presumptions arising therefrom, as well as the failure of the party to meet and refute by his own testimony matters that are charged to be within his own personal knowledge.

In Tennessee it has been held that a party failing to testify as to matters shown to be necessarily within his personal knowledge, affords a presumption against him, where the proof is not clear and his defense could be made out by his own testimony if true. See

Dunlap v. Haynes, 4 Heiskell 476.
Alley v. Connell, 3 Head 576–8.
R. R. Co. v. Garrett, 8 Lea (Tenn.) 438.

This principle is also thoroughly established by the decisions of this court, and the refusal of the party to produce his books or papers, raises a presumption that, if

produced, they would give a complexion to the case, at least unfavorable, if not directly adverse to the interest of the party. See

Clifton v. U. S., 4 Howard 242.
Hanson v. Eustace, 2 Howard 653.

In this last case, at pages 708–9, Wayne, J., says: "A party cannot infer from the refusal to produce books which have been called for, that if produced they would establish the fact which he alleges they would prove; the party in such a case may give secondary evidence of the contents of such books or papers; and if such secondary evidence is vague, imperfect and uncertain as to dates, sums, boundaries, &c., every intendment and presumption as to such particulars shall be against the party, who might remove all doubt by producing the higher evidence. * * *

"All inferences shall be taken from the inferior evidence more strongly against the party refusing to produce; but the refusal itself raises no presumption of suspicion or imputation to the discredit of the party, except in a case of spoliation or equivalent suppression—there the rule is that *omnia praesumantur contra spoliatorem.*"

In Wharton on Evidence, 2d vol., sec. 1265, that author says: * * * "Thus, if an accounting party parts with, or destroys his books, the strongest inferences, consistent with the rest of the case, will be made against him."

Again. In section 1266, he says: "The holding back of evidence may be used as a presumption of facts against the party who holds back such evidence, in all cases in which it could be produced." * * *

The non-production of evidence clearly within the power of a party, creates a strong presumption that if produced it would be against him.

Miller v. Jones, 32 Ark. 315.

These principles are elementary. The bill in this case alleges that a deed for this plantation was delivered to Price; and that after his death it, with his other valuable papers, were seized by Hodges, and have been destroyed or suppressed. The proofs tend to show that Price was out of debt; in fact, not one dollar of debt is shown against him. Hodges is shown to have taken his papers, and the proofs clearly show that he willfully deceived the brother-in-law by having the papers in the little black valise shown to him when he knew he had his valuable papers in a paper bag in his own room.

The whole complexion of the defense is unsavory and polluted. The character of Hodges is shown to be bad, and the testimony of his witnesses of the most inferior and unreliable character, while the characters of Dr. and Mrs. Cameron, Mr. Hargus and Mrs. Barton and Munroe are shown to be unexceptionally good. Moreover, the witnesses for Hodges largely corroborate the main issue in the case that are relied upon by complainants.'

All the elements, we say, exist to prove the complainants' case. Nothing is left to mere surmise. The deed is proven, the property identified, possession is shown, and the declarations and admissions of Hodges and wife, and Price, all are consistent with complainants' and inconsistent with defendant's version of the case. That it is not more definite, is the fault of Hodges. If the deed is not a clear

deed, without conditions or the consideration of $15,000 to be paid to St. John, its production by Hodges would so reveal it. That he does not so produce it, is a presumption that it expresses no such consideration. He and Peters both positively swear that Price would not take a deed conditioned to pay the St. John debt; that it was offered to, and refused by him; and yet we prove that he did take a deed for the Arnold Plantation, and that Hodges himself delivered it. The presumption, then, is, that it had no such condition; at least, in the light of this record, its non-production will warrant no other conclusion.

There was no bill of exceptions taken or ruling made on the evidence in the court below, and of course all the evidence is reviewable and competent here.

We therefore, in conclusion, most earnestly ask a careful review by this court of the facts of this case, satisfied, as we are, that great wrong and injustice have been done appellants in the decision of the court below; as no case, we wager, can be found where parties so completely in the dark as complainants were at the outset has been more clearly demonstrated, and the fraud and suppression by the spoliator more thoroughly unearthed, and respectfully ask a reversal and decree for appellants.

D. H. POSTON,
W. K. POSTON,
Solicitors for Appellants.

27-322

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Supreme Court of the United States

OCTOBER TERM, 1887.

A. E. CAMERON ET AL., APPELLANTS,

vs. } 208.

ASA HODGES ET AL., APPELLEES.

BRIEF OF W. G. WEATHERFORD,

FOR APPELLEES.

S. C. TOOF & CO. PRS. & LITHS., MEMPHIS

Supreme Court of United States.

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BRIEF FOR APPELLEES.

By declining to assign errors of law, counsel concede that the court below violated *no legal* principle in decreeing against them.

The first assignment is simply an allegation that upon *the whole case*, the decree should have been for complainants, but points to no specific error, and is therefore too vague and indefinite, and should be disregarded.

Deitsch v. Wiggins, 15 Wall. 539.
15 Wall. 1.
Ryan v. Koch, 17 Wall. 19.

The second is equally broad, save in the allegation that appellees held the *legal title* in trust for Price.

The third in effect assigns as error, the court's failure to find that after Price's death, Hodges fraudulently *suppressed his title deed and will*, leaving unassigned any matter involving the substantial merits of the case.

The questions involved being altogether matters of fact, we submit that under the rules of practice in this court in such cases, it will affirm the decree below.

Harrell v. Beall, 17 Wall. 590.
Alviso v. U. S., 8 Wall. 337.
Parker v. Phetteplace, 1 Wall. 684.
Lytle v. Arkansas, 22 How. 193.

But should the court see fit to look into the transcript, we inquire, wherein has the court below erred?

The bill alleges (pp. 9 and 10, Tr. 3), that in 1872 F. H. Price purchased the plantation from his uncle Asa Hodges, that at the date of his death he had fully paid him for it, and was in possession of a deed thereto. At p. 18, Tr. 5, it avers that on the 16th December, 1878, the title to said property *being then of record in Mrs. C. S. T. Hodges*, she fraudulently made a trust deed conveying it to Humes & Poston to secure an indebtedness of $15,000 to Arnold. But the bill fails to frankly inform the court that Price's purchase notes were assigned for value to Dowdy (Tr. 41, 46–64, 143), who in turn assigned them for his own indebtedness to Mrs. C. S. T. Hodges, and that the latter brought a foreclosure suit in the Crittenden circuit court of Arkansas, obtained a decree against Price, had the lands sold, purchased them under that sale, the report of which was confirmed and title deed approved April 27, 1877, by decree of said court; that she was placed in possession accordingly, and no question has since been made regarding its regularity or validity. The transcript of this case is in evidence (Tr. 46–64) and the fact is proven by several witnesses.

Tr. 41, 94, 97, 99.

Subsequently, in April, 1878, Price filed his petition in bankruptcy and was discharged in 1879. (Tr. 41, 100, 142). Hence, although the court is not advised by the bill of the fact, any purchase of the property by Price was, of necessity, subsequent to the spring of 1878, and could only have been paid for out of earnings or crop of that date, and probably subsequent to the spring of 1879, the date of his discharge.

The bill avers, as we have seen (Tr. 5), that Mrs. C. S. T. Hodges and her husband conveyed this property in trust on the 16th of December, 1878, to secure the indebtness of $15,000, to St. John. It charges that this trust conveyance was fraudulent *as to Price*, but in what the fraud consisted, does not appear. The trustees, who are counsel for appellants here, say it was *bona fide.*
Tr. 137.

C. B. Clarke, a defendant herein, states in his deposition (Tr. p. 116) that his house purchased the notes thus secured, upon the personal assurance of D. H. Poston, Esq., one of the trustees, "that the papers were properly drawn and the security undoubted." and that they paid value therefor.

A transcript of the trust deed is attached to defendant Hodges' answer, from which it appears that the deed was duly recorded in Crittenden county, Price's home, December 17, 1878, (Tr. 32–35) notice to him is therefore presumed.

The tax receipts for '78–9, '80, are exhibited (Tr. 109–11) showing assessment of the land to, and payment of taxes by, Mrs. Hodges.

The purchase of the trust notes by Clarke's firm, as we have seen, from the trustee, the senior counsel for appel-

lants, warrants the inference that he knew when he instituted this suit that the cotton crops raised on this property were shipped, sold and used by Mrs. Hodges.

Tr. 118–129.

We may therefore assume that enough was apparent at the inception of this suit, to require of parties claiming under Price a full exhibit in their bill of the facts of his subsequent purchase; the amount, and time, and method of payments, and the character of deed he received, whether subject to existing incumbrances, or the contrary.

But, in these essentials, the bill is eloquent for its silence. Learned counsel are content to rest their claim alone on the original purchase in the year 1872. (Tr. 3). In their brief, however, in stating its substance, they say the bill alleges "that the title to this Arnold Plantation was originally in Caroline S. T. Hodges, wife of defendant Asa Hodges," an obvious error.

So far then, as the bill is concerned, the court is left absolutely at sea as to the origin, consideration for, or character of, the alleged title of complainants.

Now, as to their proof, it is not claimed by complainants that anyone has ever seen a deed with description of lands, date, consideration, signature, acknowledgment and delivery, or that from his memory a similar one could be reproduced; with the exception of Munroe, to whom we shall refer presently, the witnesses all speak vaguely and indefinitely of *admissions* or of incidental conversations. Taken in their order in the transcript, the first is that of Mrs. Lizzie Barton (Tr. 65) who said she had heard Hodges say his wife *had offered* a deed to Price *but that he said he did*

not want to take it, that he was *so dissipated* he would run through it in twelve months. This is the reverse of proof of the *delivery* and acceptance (both are necessary) of a deed, to say nothing of any identification of land, date, or terms.

The next is Hargus, who states (Tr. 66), "I asked her in connection with that, *if Price had a deed, and she said not;* that her husband and herself had twice that year tendered him one and he neglected *or refused to take it*," another error.

The next witness is the principal complainant, Mrs. A. E. Cameron, the point in whose testimony in this regard is the relation of a supposed conversation with her brother, F. H. Price, at Memphis, in a picture store, while waiting for a street car. (Tr. 71.)

Exception was reserved at the time to the competency of this testimony. It purports to relate transactions with others who were not present, and of course not bound by the statements; it speaks of *papers in black and white*, but they are not shown to her; Mrs. Hodges being since dead, no transaction with her could be shown by the interested witness; and the bill shows that at the time of the conversation, September, 1880, Mr. *Asa Hodges* did *not* own the property, but his wife did. So *his* title cannot be affected. As matter of evidence, then, we may assume that this statement is without value.

But, examining further, he said "he was now free, and what he had was his own." We have already seen that the year before he was discharged in bankruptcy, and was of course free. He had *his papers* in black and white.

That would apply as well to his *discharge* as to *a deed*. He *had the one*, but we are without proof that he had *the other*. *He did not say so*, and it required a leading question from counsel (Tr. 72) to get her to say *she understood from the interview* that he had a title to the place in question. No pretense is made that the property was described, the trust incumbrance removed, the deed acknowledged or dated; in a word, it is so indefinite that even if competent and correctly reported, no court could act upon it.

This witness proceeds (Tr. 72) to state a conversation with Mrs. Hodges, the object of which was to effect a marriage between Price and a niece of hers, and a counter effort of witness to prevent his being *entrapped*. Later on, other supposed conversations are narrated, in which the *three* several tenders of the deed are mentioned, and also an unsuccessful effort of the husband of witness "*to get some writing from Uncle Asa showing that the property was ours.*" (Tr. 75) From which it is evident that at that time they regarded some other assurance as essential.

She proceeds on the same page to state: "I had another interview with my aunt, in which *she asked me what I was waiting for;* at least she said, 'You need not wait for your uncle;' and I said, 'Why do you think I am waiting for him?' She said: '*You need not worry your uncle any more about that property;* but if you will go home and let your uncle alone, he will carry out that will to the letter; *if you don't, he will do nothing.*'"

She had just stated (Tr. 73): "The next morning, *after Mr. Cameron and Mr. Hodges had gone* to Arkansas, she talked to me very freely about the property. She then said that the Arnold tract belonged to my brother, and

that he had willed it, giving two shares to me, etc. *She then said* that my brother had promised to give Uncle Asa $5000 out of that present crop of 1880, to pay a debt to the Arnold (estate); *a matter I then knew nothing about.*"

The obvious purpose of counsel in quoting from this witness (Brief pp. 10–13) is to show that Price was the owner and in possession of the plantation, together with his title deed thereto, "in black and white,"—able and willing at the time to present his impecunious uncle with $5000, to pay a debt to Arnold.

But, on reading between the lines, the fact is apparent that both the lady and her husband *were anxiously asking* a deed or other assurance from Hodges, and that she was *waiting* and *worrying* him with importunity. We have just seen that in her deposition at her home in Mississippi she states, on reflection, with emphasis, that *after* her husband and Hodges had gone to Arkansas her aunt told her of the gift of $5000 to pay the Arnold debt—a matter of which she says *she then knew nothing.* This was *the next morning* (November 4th).

Now compare this with the following letter written by her that day, *after* they had gone, and addressed to defendant, Asa Hodges, at Marion, his Arkansas postoffice (Tr. 105, 111):

"MEMPHIS, TENN., November 4, 1880.

"MY DEAR UNCLE—In view of the expense of traveling and the inconvenience of leaving home, and in view of the uncertainties of human life, I have concluded that it would be best for us to fix up our business before I leave the city. I want you to know that I think *your proposition is as fair as we* could ask, and *if you will fix up* and get Aunt Callie

to sign the obligation you promised to give, I will go home perfectly satisfied, and I believe all the children will be. I would suggest that you get Judge Peters to fix up the papers, and you can bring them over when you come; Aunt Callie can sign them at once. I have decided on this account to remain over till I can see you again. I am very grateful for your kindness, and have every confidence to believe you will do all that Fleming requested should be done; and with this one matter arranged, I shall rest perfectly satisfied *till the last dollar of the fifteen thousand is paid.* I am very anxious to have everything arranged, so that I can leave on the train early Monday morning.

"Your affectionate niece,

"A. E. CAMERON."

Let us assume that this witness intended, when testifying, to state the whole truth; yet the fact remains that, from defective memory, interest or other cause, she does not state the matter as it was. She knew when her husband and Hodges went to Arkansas that the debt existed—not only of five, but of *fifteen* thousand dollars, and that it was an incumbrance on that plantation.

Now, if her memory was so defective in a matter so vital, about which she at the time reduced the facts to writing, how much credence can the court give to her chance conversations, and other matters not reduced to writing, regarding the same subject?

Obviously her testimony adds nothing to the contention of her counsel, that at the date of her brother's death he had title to the plantation in question. The difficult questions encountered at the threshold regarding the *means* with which to make payment, the date and terms of pur-

chase, from whom, where executed and delivered, and description of property, are not elucidated or added to by this witness.

The next in order is her husband, who (Tr. 79) reiterates the statement that *the deed had been offered to and refused by Price twice* that year; that in the interview at his house with himself and wife, *Hodges stated that the place was mortgaged for $15,000, "and he said that as soon as the place was paid off he would make us a clear title to the property."* Two questions present themselves here: 1st. Could two witnesses possibly understand the conversation of a third party more directly antagonistic? 2d. Could a court reconcile the two, and say that, from their evidence, Hodges and wife admitted that Price *then had clear title to the property?* Rather would it not say that this witness not only adds nothing in showing that Price *could have paid for*, or that he *had title to*, the property, but that he increases their difficulty? True, it never once entered his mind that it was not Price's property (Tr. 80). This, however, was on the hypothesis that Price had promised to pay off the trust; but with distinct averment, as we have seen, that he had *refused the deed.*

Recurring to the deposition of Mrs. Barton (Tr. 65), we find her stating that in a subsequent conversation with Mrs. Cameron, Hodges told her *that he had* offered the place to Mr. Cameron and a lawyer, but it was so incumbered with debt that he could not pay it out. This is appellants' testimony. Dr. Cameron, however, fails to mention it, or to deny it! Like other witnesses, he sometimes forgets, or remembers wrong. For instance, he states (Tr. 78) that after arriving in Memphis he learned

that "we would have to get a permit to bring Price's remains to Memphis," and that he went and got the permit, *and gave it to Capt. Fogleman of the ferryboat.* The latter testifies (Tr. 84) that *no permit was furnished him*, and therefore he declined to bring the remains to Memphis.

Extreme zeal, and possibly some irritation, *will* sometimes warp the memory of the best of us; and illustrations are constantly multiplying of the propriety of the rule, that admissions of parties, after many years, should be received with great caution!

Next, singularly enough, follow sundry witnesses as to the character, which had not been attacked, of the Camerons—on the principle, no doubt, that the builder of a house knows best when it needs external support. (Tr. 82–5.)

Their next witness was R. L. Munroe (Tr. 130), who swears positively that while he was employed by Judge Hodges at his gin, about 10 o'clock one morning, in *January*, 1880, he signed a deed, as a witness, "from Asa Hodges to Fleming H. Price for the place he (Price) lived on;" *that Hodges said* it was from himself and wife, and handed it to Price. *As well as he can remember*, the names of Hodges *and wife* were signed to it. Nothing said about terms of payment. On cross-examination, he said he *did not read* or hear the deed read; witnessed *both* signatures, but did not see either one sign it. Hodges brought out pen and ink from the house, about 150 yards away, where he lodged and took his meals; could not hear what was said; paid very little attention to the matter.

To say nothing of the inherent improbability of the truth of this story, it is perhaps sufficient to call attention

to the fact that the witness says he did not know what the deed contained, or its terms; that the property is shown then to have belonged to a married woman, *whose acknowledgment*, with privy examination before a proper officer, was necessary.

Section 849, Gantt's Digest, Statutes of Arkansas:— "The conveyance of any real estate by a married woman shall be authenticated *and the title pass* by her voluntary appearance before the proper court or officer and in the absence of her husband, declaring that she had of her own free will executed the deed or instrument in question, without compulsion or undue influence of her husband."

It is not pretended that Mrs. Hodges was present or knew of this transaction, nor is the witness certain that her name was to the deed at all.

The witness testifies, (Tr. 132) Q. 15, that he ginned the latter part of Price's crop of '79, * * it was shipped to Clarke & Johnson, Memphis, * * it *was all marked* [P]. I was instructed by Hodges to mark it that way *and did so.* Q. 16. Could not state exactly how many bales of this cotton there were, but suppose *between fifty and seventy-five.*

C. B. Clarke, the merchant, exhibited a schedule of this cotton, filed on demand of appellants' counsel, and by actual count, there were just three bales! (Tr. 118). Defective memory again! But from the testimony of R. H. Seale (Tr. 147–8) to the effect that he was seeking to make money out of his testimony in this case, together with the extraordinaary nature of the evidence, a court might well hesitate to attach any weight to what he says.

Their next witness was Mrs. M. J. Phillips, who says, in reply to Int. 16, (Tr. 140), "I never heard the defendant (Asa Hodges) say anything about Mr. Price owning the Arnold Place; his wife said when the balance of the St. John debt was paid by Fleming, *she intended to make a deed* to the Arnold Place."

Their next and only remaining witness is Dowdy (Tr. 143), who is not even mentioned in the brief of counsel. It will not be claimed that his name was inadvertently omitted.

This, as to the immediate subject of inquiry, is appellants' case, and we confidently submit that they have failed to establish *the fact*, either of a sale, conveyance, delivery, date, the quantity of land sold, or consideration therefor!

But let us consider for a moment the theory and proof of appellees.

In his answer, defendant Hodges states that Price purchased the property in '72; that the unpaid purchase notes became the sole property of Mrs. C. S. T. Hodges, who foreclosed the lien, had the property sold and purchased it in her own name, and she thenceforward was the owner. Tr. 13, 14. That in February or March, '80, she caused a deed to be prepared and tendered to Price on condition that he would pay her $12,500 in three installments—January 1, '81, '82 and '83—but *he refused to accept the deed*, saying he had just been burthened with a heavy debt and would not undertake another; that he would stay and attend to the place for a salary, and after the St. John mortgage had been paid, she could *give him* what she

thought proper. She intended to turn over the place to him on his paying the incumbrance out of the proceeds, but was under no legal obligation to do so; was under no contract in writing to that end, and pleads the statute of frauds in that behalf (Tr. 14), and denies the truth of the alleged conversations or admissions, to the effect that the property was his.

In his deposition (99–100) he circumstantially details the matter, as well (103–4) as his conversation with the Camerons, and for the first time brings to light the letter of Mrs. C. of Nov. 4, (111), by which it is made apparent that his version is strictly accurate. He also sets at rest (101, Int. 5) the gratuitous allegation in the bill and in the Camerons' depositions, that he had failed to bestow proper attention to Price's remains or to advise his sister of his illness; in this he is corroborated by Hardin (97), Capt. Fogleman (85), Mrs. Phillips (139), and all who were present at his death. The supposed will of Price was a verbal expression (101) that *if he had anything*, he wished two shares to go to his sister Liffy and one each to the others. In his answer (104, Int. 13), he states with emphasis that he never knew of any *will* by, or *deed* to him, except that of '72, under which Mrs. Hodges foreclosed and bought the property.

Judge Peters, the lawyer and old friend of the parties, states (38–9) that he talked with Price a few days prior to his death about it, (having talked with him before) and asked, after his return, if his aunt, Mrs. Hodges, had ever made him a deed to the place, and he replied she had not.

Willie Campbell, a laborer on the place, says (87) Price

told him he was managing for Mrs. Hodges, and the cotton was marked in her name.

Perry Arnold, another laborer, the same. Price never claimed it as his own.

Peter G. Dougherty, a relative who lived near him, says (90) he told me he was managing the place for his aunt, (Mrs. H.) and had no interest in it.

W. F. Maddox was with him at last illness; never heard of any will being made. Price examined his papers the day before he died, burned some old pictures and said the papers were of no value. (94–5).

W. F. Hardin was intimate with Price; talked with him a week before he died; wanted to buy my store on fifteen mile bayou, saying he was tired of the Arnold Place, doing nothing, and if he could not get my store, he was going to Texas. (97).

Cartright (135) was with Price often; he never claimed to own anything but a horse; spoke as if he was doing business for Judge Hodges.

Mrs. Phillips, appellants' witness (142): "It was my understanding that Price took the bankrupt law not a great while before he died." * * * Int. 10. "After Mr. Cameron returned from Arkansas he said defendant would not give him a bond for the place till balance of the St. John debt was paid."

Julia Chaplin, an educated colored woman, his cook and housekeeper for years, states (149) that she was familiar with his business; with him during last illness; he made no will (150), spent his wages faster than he made

them and had nothing to will; personally examined his papers and sent them out to be taken away; nothing valuable among them; had read them all; only accounts of cotton sales, of the hands, and his bankrupt papers; no deeds for land or anything of that kind. Just before he was taken sick, he told witness he had declined his aunt's deed, would not pay the debt and take the land. This witness was closely cross-questioned, but sustained herself well.

James M. Hodges (154) was with Price almost constantly, day and night, during his last illness and prior thereto. He was manager of the place, for wages (155); made no written will, but gave verbal directions about watch, chain, pistols, etc. Examined his papers, and took them out for Uncle Asa to take home; no will and nothing of value among them. Price requested before he died that I give them to Uncle Asa.

Clarke (116) says the cotton from the place was sent in Mrs. Hodges' name to *his* mercantile firm. Had paid several drafts from her in Price's favor, varying in sums from $50 to $150.

It is deemed unnecessary to refer to the alleged will; but as the third proposition and contention of appellants' brief (p. 36) is that the deed *and will* of Price were obtained *and suppressed*, it may be well not to ignore it.

They review such portions as they deem material of the evidence of Hodges, Peters, Hargus, and J. D. Cameron (Brief pp. 36–40), and, singularly enough, *the will is not mentioned* in the testimony quoted from either of them.

Upon searching the transcript, we find (p. 73) in Mrs. Cameron's testimony a statement of her aunt, Mrs. Hodges, in Mrs. Phillips' presence, that her "brother had made a will, but did not tell me its contents; that a negro man had come over, and *this is what she said the negro told her.*" Later on (p. 74) she says the night he was buried, after uncle came home, "he talked very frequently about the property; * * * said my brother had willed it, but it was a *verbal* will."

Mr. Cameron, referring to the same conversation (p. 79) says he (Judge Hodges) spoke of his *having willed the property;* the wife having just said that he said at the time it was a *verbal* will.

Hargus says (66) that he had a conversation *with one of the servants* (name not given), *who said* that he had willed it to his sister and daughter, or sister and sisters; she did not seem to know which.

And Mr. Dowdy testifies (144) that Mrs. Hodges told him, while waiting for the ferryboat to bring Price's remains, that he had made his will. It will be remembered that Mrs. Cameron states she told her the same that morning, on the authority of a negro man.

This is believed to be the evidence upon which it is insisted that the court shall find and declare that a will had been duly executed, and then seized and suppressed!

Under the law in force at the time, it was required, Gantt's Digest:

"Sec. 5763. * * * Fourth—There shall be at least two attesting witnesses (to the will), each of whom shall sign his name, as a witness, at the end of the will."

"Sec. 5775. No nuncupative will shall be good where the value of the estate exceeds five hundred dollars in value, nor unless it be proved by at least two witnesses, who were present at the making thereof," etc.

"Sec. 5779. * * * Wills shall be proved and admitted to record by the circuit court (now probate) *of the county* of *testator's residence.*"

"Sec. 5816. No will shall be allowed to be proved as a lost or destroyed will, unless * * * its provisions be clearly and distinctly proved by at least two witnesses."

By what authority can a court in Tennessee establish a will to real estate in Arkansas?

What two *witnesses* have *clearly* and distinctly proven either that Price had a will, or its terms?

Mansfield's Arkansas Digest, in force when this suit was brought:

"Sec. 4996. An action to establish or set aside a will *must be brought in the county* in which the will, if valid, ought, according to law, to be recorded."

"Sec. 4994. Actions for the following causes *must be brought in the county* in which the subject of the action is situated:

"*First*—For the recovery of real property, or of *an estate*, or *interest* therein."

The question may be repeated, Why is *this* action brought in Tennessee?

We have seen that in Arkansas a married woman conveys her real estate and *title passes* by her acknowledgment of the deed on privy examination by a proper officer.

This court has held that such privy examination and acknowledgment *cannot* be proven by *parol* testimony.

Elliott v. Piersol, 1 Pet. 338.

It is not pretended that such privy examination or execution by Mrs. Hodges has been proven in this case, nor have counsel thought it worth while to suggest a method of avoiding its necessity.

In Arkansas it has been adjudged that the executory and unacknowledged contract of a married woman to convey her real estate is simply void.

Wood v. Terry, 30 Ark. 385.

Voidable at her election.

Milwee v. Milwee, 44 Ark. 112.

She may convey estate acquired since the Constitution of 1874 was adopted, but *cannot* make *executory contracts* to convey.

Chrisman v. Partee, 38 Ark. 31.
36 Ark. 355, 386.
30 Ark. 385.

Without proof that such a deed had been *executed and delivered*, the court will, of course, not presume it.

When a written contract is to be proven by parol, no *vague*, *uncertain* recollection concerning its stipulations ought to supply the place of the writing; the *substance* of the agreement ought to be proven satisfactorily, and if this cannot be done, the party is in the condition of every other suitor in court who makes a claim he cannot support.

Ch. J. Marshall in Taylor v. Riggs, 1 Pet. 600.

In *Hinde v. Belinda*, 1 Pet. 245, this court say: "Again. If complainants should fail, as we think they have failed,

to prove by competent and satisfactory evidence, the former existence, execution and contents of a formal deed of conveyance sufficient to pass the legal title, &c.," from which we see clearly the character of proof that was considered essential in that regard.

In *Vattier v. Hinde*, 7 Pet. 266–7, the bill alleged that a deed had been executed. The court say there is much reason to believe the allegation true, but it is lost, and the proof of its existence is not thought sufficient to establish it.

The person *must have read it*, and spoke from personal knowledge; having *heard it read*, is not sufficient.

Nichols v. Ore Co., 56 N. Y. 618.

To prove the contents of a lost deed, it must be shown to have been duly executed, and the witness must prove substantially its contents.

Edwards v. Noyes, 65 N. Y. 125.

We conclude that—

1st. For their failure to assign material error, the decree should be affirmed.

2d. For the reason that the matters at issue are purely questions of fact, the findings of the Chancellor should be concurred in.

3d. Upon the merits, as appear of record, appellants are not entitled to relief.

4th. The law is against them.

Respectfully submitted. T. B. Turley

W. G. WEATHERFORD,

For Appellees.

27-332

Office Supreme Court U. S.
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CLERK.

IN THE

Supreme Court of the United States.

A. E. CAMERON
vs.
ASA HODGES ET AL. } No. 208.

Brief on Jurisdiction.

In this case we now present to the court the affidavit of Asa Hodges, defendant and appellee, as to the citizenship of the complainants, and thus show that they are all of them citizens of States different from the State of the complainant.

The court has the admission orally made during the argument by counsel that the facts are as stated in this affidavit.

The question, then, is, Can the mere possibility that some one of these parties might be a citizen of the District of Columbia be negatived by affidavit or admission here, so as to obviate the omission of some negative of that fact in the record below?

We are not aware of any direct authority upon this question, but we submit that the principle has been announced which controls it.

In R. R. *v.* Ramsey, 22 Wall., 322–328, this court say:

"Consent of parties cannot give jurisdiction, but the parties may admit the existence of the facts which give the jurisdiction, and the court may act judicially upon such admission."

It is true the admission there was that the evidence of the facts once existed in the record; but I submit that the admission, or evidence of the fact, is just as good a ground for the court to act upon as the admission that it was once alleged in the record and not denied.

The admission that the allegation existed, and was not denied or put in issue, is simply an admission of matters which might have been true, and yet the jurisdiction might not exist; for the allegation might be untrue, and the failure to deny collusive or negligent.

But the evidence, or the admission, that the facts exist is conclusive of the existence of the jurisdiction. The court, then, may rely with perfect satisfaction upon evidence of the actual existence of the jurisdiction, which they could not have in the ordinary case of an allegation merely not denied.

In substance, then, the evidence which we now offer of jurisdiction of the court is quite as satisfactory as that existing in the ordinary case where the evidence is merely an allegation not questioned by the adverse party. It results that if there is any difficulty in the matter it is not in satisfying the court of the fact of jurisdiction, but a question of mode; in other words, a technical objection—an objection not that the court did not have the jurisdiction, but that it does not appear in a *particular way* that the jurisdiction did exist.

In *Ex-parte* Bradstreet, 7 Peters, 647–'8, the court say:

"The demandant had a right to give the value of the property, demanded in evidence, at or before the trial, and would have a right to give it in evidence in this court."

The court was there speaking of evidence of the jurisdictional facts as affecting the case in the court below.

It is not contended that this is a judicial determina-

tion of the exact question here; but it is submitted that the character of the question is the same. The court has no more the jurisdiction of a sum below the limit, than of parties not within the statute; and if the one fact may be established on the trial or in this court, why may not the other? It is true that there was no question there of the right to make the proof in this court, for the question was upon the refusal of the court below to hear that evidence, but the statement made by the court is entitled to great respect if it be merely upon a technical question, and the dictum be one in aid of justice and of substance, and in avoidance of mere obstruction and circuity.

The statute does not prescribe any mode in which either citizenship or amount in dispute shall be made to appear. If the facts exist, the jurisdiction exists. The statute requires the existence of the fact, not the mode in which the existence of the fact shall appear.

The courts, then, are at liberty to adopt such practice as may with the least circuity and delay guard the jurisdiction without turning away cases of which they have jurisdiction in fact.

What, then, is there to prevent this court from saying that, although this record below does not show conclusively the jurisdiction, yet the jurisdiction of that court does now conclusively appear? The parties below, knowing the facts, have made no issue on the jurisdiction. Their conduct admits, by silence in the court below, the jurisdiction. They assign no error here upon it. The affidavit here and admission satisfy the court that the jurisdiction did in fact exist. The cause is ended by the judgment below. The complainant could not, if he desired, be allowed to take advantage of his own wrong or omission, or assign error upon it, and the court will not go out of its way to give him a benefit he has no right to ask, and does not ask. We will not,